



State Representative  
77th Assembly District

**Brett Hulsey**

Serving Madison,  
Shorewood Hills & Middleton

## **Testimony on 2011 Special Session Senate Bill 10**

By Representative Brett Hulsey  
February 1, 2011

Thank you Mr. Chair and members of the committee for this opportunity to share my thoughts on SB 10.

I am concerned that this proposal will make it very difficult to find a tenant for this site, create no jobs, violate citizens' Constitutional rights, and increase flood risks for neighbors.

Keeping and creating jobs is a top concern for my constituents. As a small business person running an environmental consulting firm, I work with companies to build environmentally sound projects and avoid messes like the one you have before you. I have a Masters in Natural Science and Zoology, have restored wetlands and earned the FEMA Distinguished Public Service Award for my studies showing wetlands protect families and homes from floods.

**Approving SB 10 will make it difficult to develop this site.** As the CEO from Bass Pro Shop told me and their representative has said many times, "we will not build on wetlands." Bass Pro Shop and most other Fortune 500 companies would not want to touch the site because the bad publicity, potential boycotts, stockholder petitions and other actions by national conservation groups.

**Approving SB 10 also threatens to take away the rights of citizens** to address their grievances and creates a potential for state and federal court challenges. These cases could take years to resolve, again delaying any job creation.

**Approving SB 10 could also increase flood risks for neighbors.** Losing 1.6 wetland acres could result in the loss of about 1.5 million gallons of flood storage. Since the homes surrounding the site are built on hydric wetland soils, the flood risk would be increased.

**There is no need to destroy wetlands to build on this site.** As the July 2, 2011 DNR staff memo stated, "The applicant has identified 11.39 acres of upland on the property that has the potential for development. There is adequate acreage/square footage for a large size commercial development." The May 18, 2010 memo called it "one of the best urban wetlands".

Instead of passing SB 10, I would urge the developer to move the edge about 40' to avoid the wetland. If done, this development could proceed immediately with no legal delay.

Thank you for your consideration.



**Zimmerman, Terri**

---

**From:** "Brand, Jon C - DNR"

**Sent:** Friday, July 02, 2010 8:41 AM

**To:** "Baker, Bruce J - DNR"; "Rasmussen, Russell A - DNR"; "Kazmierczak, Ronald - DNR"

**Cc:** "Stoll, Richard C - DNR"; "Lehmann Kerler, Liesa K - DNR"; "Brand, Jon C - DNR"

**Subject:** Comments/Recommendations for Bergstrom Corp. Wetland WQC IP-NE-2010-5-01621

The following are my comments/recommendations pertaining to the application for wetland water quality certification.

At this time based on my review, which included comments and a recommendation from Dick Nikolai - wildlife biologist I question whether the proposed project meets the required standards in NR 103.

Granting WQC for this project may set a precedent for future Department review of similar development associated with potential wetlands impact. Based on awareness of this decision, it may become increasingly difficult to maintain the integrity of the wetland program.

The latest revised proposal states that 1.65 acres of wetland would be impacted/filled.

These are comments/reservations regarding the proposed project.

- The applicant has identified 11.39 acres of upland on the property that has the potential for development. There is adequate acreage/square footage for a large size commercial development. ✕
- The wetland functional value is considered to be high. The wetland type had largely been identified to be "sedge meadow". Comments from Dick Nikolai express the value of this wetland. Placement of fill in 1.65 acres of this wetland would have a significant adverse impact on this wetlands functional value.
- There appears to be an alternative that meets the applicants criteria for location. The criteria stated in the application is that the business be located adjacent to, and have direct access to a U.S. highway exit. The location at STH 29 and USH 41 meets the location and size criteria. It is my understanding that this property is available.

Jon Brand  
Water Management Specialist  
Green Bay Basin  
(920) 662-5466





# CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: May 19, 2010

FILE REF: 2300

TO: Jon Brand

FROM: Dick Nikolai

SUBJECT: Bergstrom Wetland (Hwy 41 & Lombardi in Green Bay)

We investigated the area (14 acres total with possible fill of wetlands of 2.5+ acres) with various professionals including representatives for engineering and ecological services for Bergstrom on May 18, 2010. The wetland in question lies near Highway 41 and Lombardi Avenue in Ashwaubenon near the stadium. When arriving I was greeted by a pair of Sandhill cranes that were milling around near the wetland to be filled. They acted as if they either had a nest or some young. Later Ginny Plumeau indicated they had seen them with one young when she had wandered the property. Because of that disturbance the adults wandered away before any picture was taken.

We transversed the wetland designated to be filled in a manner going from east to west to cover the length of the area and also transversed the wetland by going in a zigzag pattern by going north and south to identify plants and wildlife sign that inhabited the wetland. Since previous disturbance had occurred prior to my arrival, wildlife may have been missed that utilized the property from that glimpse of time which may have been pushed out. The wetland was previously mowed sometime in late summer to fall 2009 eliminating the structure (density, height & amount of dead matted material covering the soil) of the vegetation.

Presence of trees, shrubs, sedges, grasses and forbs were noted within the wetland which was beginning to grow. The wetland description best fits a sedge meadow with areas of shrub-carr with deeper pockets of water having cattails. Primarily phragmites was present only on the disturbed portions near the highway fence and already filled in portions of what probably was a larger wetland complex. In the proposed wetland to fill, few invasives were present. The area largely comprised of sedges with pockets of cattails and alder. *From an urban area this was one of the best intact wetlands present that I have seen in my tenure.*

Species of plants noted in the wetland were bottle gentian, marsh marigolds, Jack-in-the-pulpit, Carex (at least four species—Lake Sedge along with some hummock sedge being two of them), nettles, alder, willow-few shrubs but several trees were cut, wild iris, cattails, marsh milkweed, potamogeton sp, asters, goldenrod, mints and monkeyflower. On the south end of the wetland were a few upland pieces which had starflower, Canada mayflower, bastard toadflax, oaks, large-leafed aster and mayapple.

Here is a list of wildlife sign seen on the wetland:

Actual presence of species was noted on Sandhill cranes (pair), Geese (five adults with two pair having a total of nine goslings), robins, red-wing blackbirds (four pairs noted along the fence), morning doves (30+) using the area for water and one nest of two eggs on the wetland proper, female woodcock disturbed on nest with three eggs, killdeer and a song sparrow. Presence of species was noted of muskrat (trail, feces & cuttings) between the fence and the road, a successful goose nest with five amniotic membranes and deer tracks. In the wooded wetland to the west, Baltimore oriole's were seen picking up nesting material, singing in the tree canopy and sparing for territory. Either a hairy or downy woodpecker was seen near some cavities in the trees where the vegetation prevented the correct identification. Some cedar wax-wings were present in the tree canopy and flying to and from the white pines. No amphibians were present in the wetland to be filled or any reptiles. For amphibians the wetland was probably dry last fall as well as late spring so mortality could have taken place with our open winter.

Did find some leopard frogs (two) and green frogs (10+) on the dug ditch to the south. Deeper water exists so freeze outs probably were prevented with suitable habitat to bury down in the mud and debris on the bottom of the ditch.

The wetland suggested to be filled contains a nice mix of habitat for wildlife to exist as noted by the species





Wetland had an abundance of wildlife using it like geese, doves, Sandhill cranes & woodcock.



Bottle gentian was found in several areas within the wetland.



Ditch is located to the south of the property and heads west. Area had lots of frogs along this corridor of open water. Phragmites was prevalent again where disturbed areas were created.



## CORRESPONDENCE/MEMORANDUM

DATE: June 9, 2010

TO: Jon Brand

FROM: Dick Nikolai

SUBJECT: Bergstrom Wetland (Hwy 41 & Lombardi in Green Bay)

FILE REF: 2300

Note that I did a follow-up check date on June 7 around 13:30 on the wetland seen initially on May 18, 2010. Spent about an hour quickly checking on plant species, wildlife usage and checking the area surrounding the staking for the requested fill areas.

Vegetation was quickly growing back from the cut over wetland. Some structure of habitat was taking place so as to be attractive for wildlife as mentioned in my previous assessment. Since this was mid-day not a whole lot of wildlife activity occurred or was seen except for two species—red-wing blackbirds and spotted sandpipers. The red-wings were utilizing the cattails for nesting because of the increased growth and the sandpipers were using a number of areas of the wetlands. In particular, the sandpipers were using areas that were to be filled. These contained sedge as well as pockets of sedge and cattail with up to several inches of water. These small flat areas of either mud or shallow water were utilized for probing or catching invertebrates and used as a nursery area for their young of a few days. While I did not get a picture of the young (size of a half-dollar), I did capture one of the adults on camera (see below).



Notice some of the habitat structure needed for this particular species in addition to the sedge areas.







Tufted loosestrife (Lysimachia thyrsiflora)—edges of  
bogs &  
marshes & swallow water areas.







## WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

January 26, 2011

John L. Morris, Founder  
Jim Hagale President & CEO  
Bass Pro Shops, Inc  
2500 East Kearney Street  
Springfield, MO 65898

Dear Mr. Morris & Mr. Hagale:

As outdoor enthusiasts and anglers, we are writing to express our concerns about Special Session Assembly Bill 10, a bill to bypass Wisconsin's wetland conservation laws to build a Bass Pro Shop on wetlands in the municipality of Ashwaubenon, located in Brown County, Wisconsin, according to newspaper reports, see Milwaukee Journal Sentinel article:  
<http://www.jsonline.com/news/wisconsin/113465594.html>

As you know, wetlands are vital for bass and other fish species to spawn, rear their young and grow their populations. Without wetlands, there are no fish.

After hearing more than three hours of Assembly Natural Resources Committee testimony on this matter, we believe that your company and the developer, Mr. Bergstrom, can reach a compromise that meets your needs but also protects our state's wetland laws and its fish population.

As conservationists, we want to work with you and the Wisconsin Wetlands Association, Wildlife Federation, and other conservation groups to create good jobs and protect key bass habitat like wetlands.

Please contact Rep. Brett Hulsey's office immediately to set up a meeting to discuss this matter at 608-266-7521.

Sincerely,

Rep. Louis Molepske  
Rep. Chris Danou  
Rep. Brett Hulsey  
Rep. Nick Milroy

Cc: Martin MacDonald  
John Bergstrom  
Paul Kent



# **Bass Pro Shops says no to wetlands, but GOP still backs bill**

**Milwaukee Journal Sentinel**

**By Lee Bergquist and Patrick Marley**

Jan. 28, 2011

Gov. Scott Walker and legislative leaders said Friday they would move quickly to enact a bill that would allow a developer to build on a wetland near Lambeau Field, even as the retailer envisioned for the development announced that it would not build on such a site.

Walker's comments came after Bass Pro Shops issued a statement saying the company does not favor building a store where wetlands are present.

The Missouri-based retailer had earlier discussed with a developer building a store at Highway 41 and Lombardi Ave. in Ashwaubenon near the home of the Green Bay Packers.

The development has been slowed over wetlands concerns, prompting the Republican governor to write a bill this month that would allow a developer to sidestep a standard water quality review by the Department of Natural Resources.

The bill cleared an Assembly committee Thursday, after language was added to narrow the focus of the bill to appease conservation groups.

The Assembly plans to vote on the bill Wednesday.

The measure angered environmental and conservation groups, who said it effectively negated the rights of citizens to challenge such cases. They also said it amounted to legislation that helped a single developer, who has long contributed to candidates in both parties.

The battle highlights the tension in Madison over environmental regulation and how those decisions can affect the state's economy. It also underscores Walker's willingness to employ the legislative process with a seldom-used tactic to help a specific company avoid



But the Wisconsin Wetlands Association challenged the decision, despite an agreement by Bergstrom to make several modifications.

Because of the challenge, Bergstrom must go through a judicial-like proceeding known as a contested-case hearing, and he was advised by Kent that the proceeding could take months. Walker's bill would have sidestepped that process.

Four Democratic lawmakers sent a letter to John L. Morris, founder of Bass Pro Shops, on Wednesday expressing their concerns about the environmental effects of the project.

Republicans blamed the letter for killing the deal.

"Liberal Democrats in Madison scored a death blow to northeast Wisconsin's economy by winning a battle for the far left agenda," Assembly Majority Leader Scott Suder (R-Abbott) said in a statement.

Bass Pro Shops typically employ 300 full-time workers.

One of the letter writers, Rep. Brett Hulsey (D-Madison), said part of the development could be moved back 40 feet to avoid the wetlands. That would end the controversy and allow the project to proceed, he said.

"If the bill passes next Wednesday, no Fortune 500 company will want to touch this because it's dirty," he said.

Rep. Nick Milroy (D-South Range) said the review process should have been allowed to play out.

"I favor the development, but there has to be a proper procedure," Milroy said.

But Senate Majority Leader Scott Fitzgerald (R-Juneau) noted the project was in a heavily developed area and would probably be developed whether Bass Pro comes or not.

"I don't see any reason to really pull back," Fitzgerald said.

### **Known for stewardship**

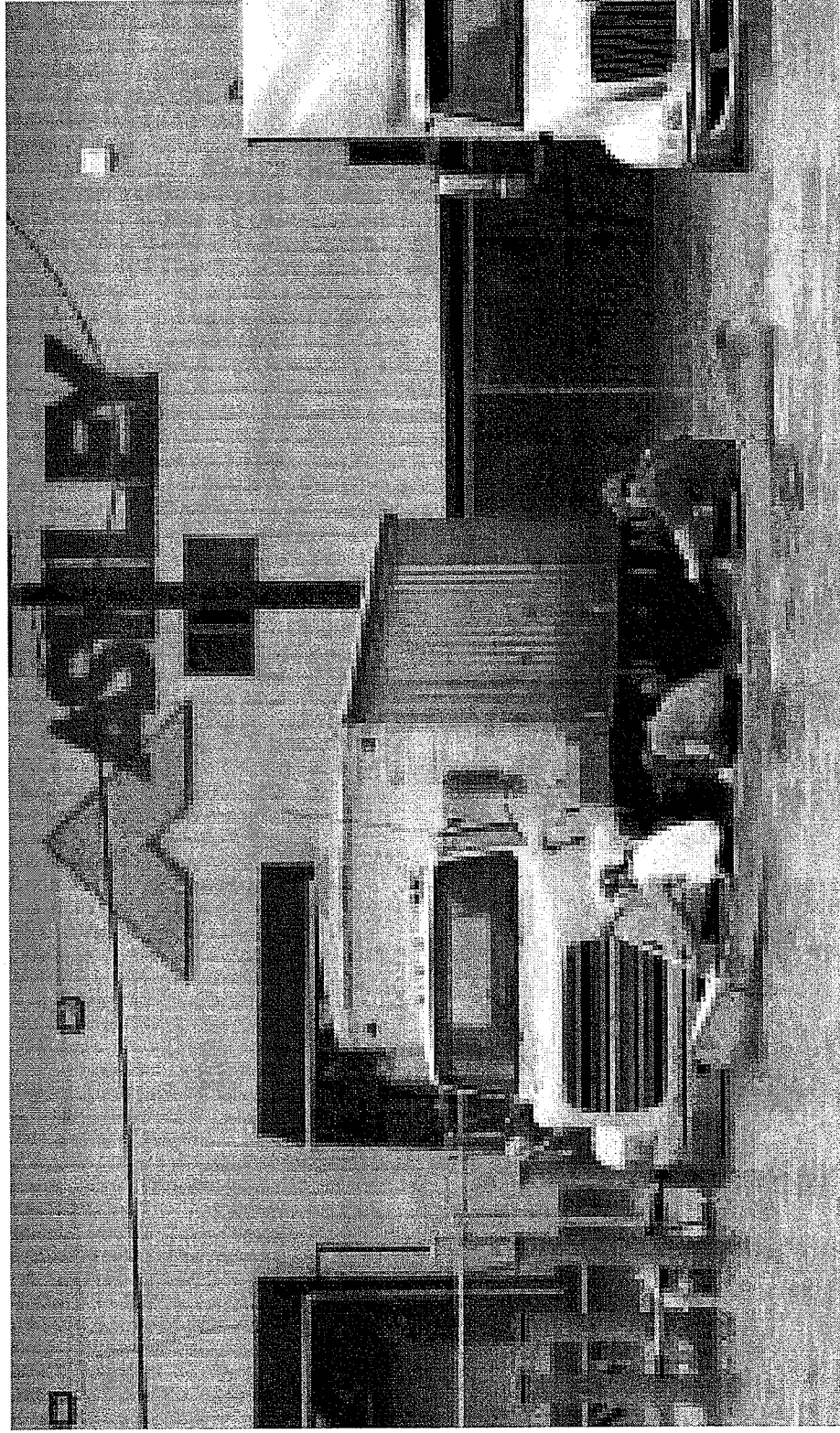
In a statement, the wetlands association said Walker and Bergstrom "focused on using political capital to circumvent the law. Yet neither of them considered the environmental ethic and business practices of the company that they wanted to bring to Green Bay."

Former DNR Secretary George Meyer said he wasn't surprised by Bass Pro Shops' announcement. Meyer, executive director of the Wisconsin Wildlife Federation, said the company's reputation of stewardship doesn't condone wetland destruction.

Meyer said Bergstrom's offer to restore wetlands in another location is laudable, but only



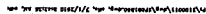
## **This is what happened when the DNR granted a wetland fill permit**



Canoeists paddle past an Ashley Furniture building in Arcadia Sept. 23, the day the company shut down production due to flooding. DAN REILAND – Associated Press, [http://host.madison.com/wsj/news/local/environment/article\\_c0938813-afc8-517c-9e34-bfac3af6c3a6.html](http://host.madison.com/wsj/news/local/environment/article_c0938813-afc8-517c-9e34-bfac3af6c3a6.html)







**ENTER THE CONTEST**  
 Toll Free 800-342-8811  
 Information: Ann 1049 888-1181  
 Starting Monday, 1000 PM 800-342-8811

NOTE: CONTRACTOR SHALL REFER TO ARCHITECTURAL PLANS FOR LOCATION OF EACH UTILITY. LOCATION OF UTILITY INSTALLATIONS SHOWN ON THIS PLAN ARE APPROXIMATE. THERE MAY BE OTHER UNDEGROUND UTILITY INSTALLATIONS WITHIN THE PROJECT AREA THAT ARE NOT SHOWN.

© COPYRIGHT 2003 P.A. Smith Regional, Inc.
DATE: 04/10/10
SCALE: 1" = 60'
JOB NO. 3100011
PROJECT MANAGER CHRISTOPHER D. MITCH, P.E.
DESIGNED BY: DLM
CHECKED BY: CDM
SHEET NUMBER

ARGONNE STREET RETAIL SITE  
ASHWAUBENON, WI

**R.A. Smith National**  
Beyond Surveying  
and Engineering  
1676 W. Riverbend Road, Brookfield WI 53005-4918

DESCRIPTION





**Oppose Special Session Senate Bill 10:  
Undermining Wisconsin's Wetland Protections  
Statement of Jennifer Giegerich  
Wisconsin League of Conservation Voters  
February 1, 2011**

Good morning. I am Jennifer Giegerich, Legislative Director for Wisconsin League of Conservation Voters. Thank you, Chairman Kedzie and members of the committee, for allowing me to testify today.

Wisconsin League of Conservation Voters urges you to oppose Special Session Senate Bill 10. SS SB 10 would create special exemptions to protections for wetlands in Brown County for the benefit of a single developer. No reasonable explanation has been offered as to why a sweeping bill that disregards science and reasonable legal process is needed in a special session. Special Session Senate Bill 10 threatens water quality, our economy, and our democratic process not just in Brown County, but for the entire state of Wisconsin.

**1. Special Session Senate Bill 10 threatens water quality.** Healthy wetlands slow down and filter runoff from storms and snowmelt, allowing sediment and other pollutants to settle out before reaching our lakes, rivers, streams, and drinking water aquifers. Wetlands also have the ability to absorb and transform nutrients and contaminants and help to prevent flooding. Randomly filling in wetlands can undermine the water quality and flood-control prevention of nearby rivers, lakes, and streams.

**2. Special Session Senate Bill 10 threatens our economy.** Seventy-five percent of Wisconsin's wildlife species depend on wetlands for some portion of their life cycle, including important game species such as deer, bear, ducks, geese, pheasant, grouse, walleye, musky, bass, and northern pike. Communities that maintain healthy wetlands on public and private lands can realize a greater portion of the \$3.8 billion dollars in annual retail sales and the 72,000 jobs associated with Wisconsin's hunting and outdoor recreation economy.

**3. Special Session Senate Bill 10 threatens our democratic process.** This bill is in response to a specific wetland permit that is currently before an administrative law judge and has not been resolved. Introducing this legislation at this time is creating a precedent that any time an entity – like a political donor - doesn't like the outcome of a decision at the agency level, they can by-pass all available remedies and ask the legislature to create an exception for them.

---

**Educate • Advocate • Evaluate**

---

**4. Special Session Senate Bill 10 creates a precedent that threatens a fair and consistent regulatory environment.** SS AB 10 creates a special exemption for Brown County, which could create a patchwork regulatory environment that is often cited as being unhelpful to attracting new business to Wisconsin. Geographic exceptions to state law should only be made where there is sound science to justify being held to a different standard. In this case, not only is there no scientific basis for treating Brown County wetlands differently, but the basis for this exemption appears to be political.

**Finally, not only does this bill not ensure the long-term protection of our natural resources which are at the heart of a vibrant economy, but this bill also does not create jobs, which is the stated purpose of the Special Session. Therefore, we ask that you oppose Special Session Senate Bill 10 and ensure that Wisconsin's wetlands are protected for future generations.**

Thank you.

**Wisconsin Senate**  
**Committee on Natural Resources and Environment**  
**Public Hearing- February 1, 2011 Relating to**  
**Special Session Senate Bill 10**

---

**Testimony of Michael J. Cain**

---

My name is Michael Cain. I am an Attorney from Madison, WI. I appear today in opposition to the adoption of this bill, which is designed to deprive citizens of the State of WI a principled process to review a decision which has been made by the Department of Natural Resources, a public agency, relating to a high quality wetland in Brown County, WI.

I come here today wearing two hats:

I come as an Attorney who is representing the WI Wetlands Association in the case involving the wetland resource in the Village of Ashwaubenon which is the subject of this Legislation and this hearing. I am not here to argue this case to this Committee, because this is not a proper forum to adjudicate the issues, which involve legal and factual issues which are, under our system of laws, to be adjudicated before an independent Administrative Law Judge or resolved through good faith negotiations.

I will briefly describe my background. I grew up on a farm in Southwest WI where I learned the value of real property, hard work, and fair play. I went to college at UW Stevens Point where I received a Bachelor's Degree in Biology, with an emphasis on aquatic resources. I graduated from UW Law School and worked for the State of WI Department of Natural Resources for 33 years. For 31 of those years, I was the principal attorney dealing with wetland and surface water regulatory issues for the Department.

I have handled, for the WI DNR, hundreds of contested cases and have been involved in thousands of cases involving WI's surface waters and wetlands. I worked on policy issues with some of you on this Committee, including the bi-partisan adoption of WI's Act 6, in 2001, which assures that wetlands such as that involved in the immediate matter would receive review under WI's laws. I retired from the WI DNR in December, 2009. I am proud of my service to the State of WI and am proud of WI's history of responsible, bipartisan support of its natural resources.

Attachment 1

Letter to the National Science Foundation

Dear Sirs:

I am writing to you regarding the

proposal for the

proposal for the

proposal for the

proposal for the

proposal for the

proposal for the

Sincerely,

I routinely serve as Faculty for State Bar of Wisconsin Continuing Legal Education Courses for WI Attorneys in the area of water and wetland law. I regularly lecture at UW and Marquette Law Schools, UW- Madison and UW Stevens Point on those issues.

I joined the Board of the WI Wetland Association in 2010, because I respected them as a science based organization which works hard, with all parties and in a bi-partisan way, to educate people about, to protect where appropriate, and to restore when possible, WI's wetlands. I told them I was not coming on the Board to be their Attorney. They are not a litigious organization, having only been involved in one other contested case in their history.

They asked me to review the file for the Bergstrom application. I reviewed the WI DNR's entire file, and was startled by what I saw. Professional Department field staff did excellent field work and identified the wetland involved in this matter as high quality with few invasive plants present. It provided habitat for sand hill cranes, woodcock, mammals, and many migratory birds, and was described by a 20 year veteran wildlife biologist as "... one of the best intact wetlands present [in an urban area] that I have seen in my tenure." When Department staff advised the applicant that this was a high quality wetland, that there were clearly upland alternatives available, and that it would not meet the State's legal standards, the file reflects that it was taken out of their hands. A permit was issued 2 months later from the Central Office of WI DNR without any evidence in the Department's file from any technical or program expert which disagreed with the assessment of the Department's professional field staff.

When we completed our review of the entire file, I advised WWA that since this decision was made without any basis in law or fact, they should seek to have it reviewed before an independent ALJ and that I would serve as their attorney at no cost to them. We reviewed the site with three wetland experts from UW Green Bay, who have prepared a preliminary report corroborating the opinions of the WI DNR experts.

We are prepared for hearing, and have awaited, since September, 2010, (when our hearing was granted) the scheduling of a hearing or the scheduling of a session with all of the parties to negotiate, in good faith, a settlement in the case. At this date, the WI DNR has not scheduled the matter for hearing. There has not been a good faith negotiation process offered to us.

This is a case that could be resolved without hearing, as there is a 300 acre proposed TIF being developed for the overall Titledown Development project. There are only three wetland parcels in that 300 acres, and all are on the far West end of the TIF. (See the attached map of the TIF overlaying the WI Wetland Map.)

We have talked to the local municipalities about potential solutions. Local officials believe this issue can be resolved. The applicant in this case refuses to meet with us, the municipalities, and other interested parties to explore a good faith solution. It was represented to us that the "high





end retailer of sporting goods" who would be the tenant had made demands that would require the project to be located on this site and would require the filling of 1.65 acres of high quality wetland. Despite our requests since November 15, 2010, asking for documents that ostensibly supported those assertions, the applicant has refused to provide any information to us relating to that issue. As you have heard here today, that retailer, as a responsible corporate citizen, announced last week that it does not want to locate on a filled wetland site. That does not mean that the project cannot go forward. With some adjustments, it is clear to me that this project could proceed without public objection.

As the Attorney for the WI Wetland Association, I implore you to assure that the public not be deprived of their Constitutional rights by the adoption of this special exemption legislation.

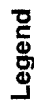
WI government is better than this. You should not be a party to this action.

My second hat is as a citizen of the State of WI. I enjoy and utilize our wetlands and surface water resources. I do not hunt, but I am an avid, and sometimes successful, fisherman. I also boat in our State's waters with my wife and children. It is critical, for the protection of our State's water quality, fishery populations, economy and quality of life, that we make reasoned decisions, with full opportunity for public participation and vigorous discussions of the science and public policy issues, relating to projects that affect these resources. Legislation such as that proposed here does not meet any of those standards. I urge you to reject it, and urge you to implore all of the parties to get together and resolve the issues relating to the Titledown project in a way that protects valuable existing resources while assuring a successful development.

Thank you.



1000

[illegible]

## Interstate

- 

Notes: Map Created on Jan 28, 2011, from  
WDNR Surface Water Data Viewer





222 S. Hamilton St., #1  
Madison, WI 53703  
Phone: 608.250.9971

**Wisconsin Wetlands Association Testimony - January 2011 Special Session Senate Bill 10**  
Presented by Erin O'Brien, Policy Director

***Mission Statement:** Wisconsin Wetlands Association is dedicated to the protection, restoration and enjoyment of wetlands and associated ecosystems through science-based programs, education and advocacy. WWA is a non-profit 501(c)(3) organization.*

Wisconsin Wetlands Association is opposed to Senate Bill 10 in its current form, as well as the amended version that was approved by the Assembly Committee on Natural Resources. That version removed state wetlands protection permitting authority for all activities in the Village of Ashwaubenon that:

1. Affect less than 3 acres of wetlands;
2. Are zoned business; and;
3. Are part of a Tax Increment Financing District.

---

This bill is a response to a request by John Bergstrom and his agents for private legislation to allow him to fill the wetland area on the Southeast corner of the intersection of Highway 41 and Lombardi Avenue. This issue has been well publicized in the media, but here for the legislative record, is a brief chronology of events and Wisconsin Wetlands Association involvement in this matter:

- DNR received an application, and payment for an expedited permit review from John Bergstrom on April 7<sup>th</sup>, 2010. The intended development was not named in the application, but as DNR stated in the Green Bay Press Gazette, the working assumption is the tenant would be a Bass Pro Shop.
- Regional Department biologists and permit staff reviewed the application and evaluated the site in May and June. They recommended against allowing the fill due to concerns over impacts to a high quality urban wetland, that alternatives were available, and that the project did not comply with state water quality standards for wetlands.
- On July 14, 2010 Administrators in WDNR's Central Office issued a permit approving 1.65 acres of wetland fill.
- The Bergstrom/Bass Pro Shop project was presented to the DNR as one piece of a large-scale redevelopment proposal to bring new restaurants, entertainment venues, and retail establishments to a Titledown Entertainment District surrounding Lambeau Field. A 300 acre multijurisdictional TIF District is being developed to support this plan. In December, 2010, the Village of Ashwaubenon provided to us a map of a tentative 300 acre TIF district for this overall development project (see attachment).



- On August 31st, and as was our right under Wisconsin law, Wisconsin Wetlands Association petitioned the Department for a Contested Case hearing seeking review of the permit decision by an independent Administrative Law Judge.

We made this decision after reviewing the complete project file and determining that the decision that the project met state water quality standards for wetlands was not supported in the project record and that, if gone unchallenged, the decision would set a new standard for how the wetland protection laws of the state are interpreted and applied. It was, and remains, our assertion that alternatives are available that would allow the project to proceed within the proposed TIF District without filling the wetlands. Given this, the project as proposed, would result in unnecessary and significant adverse impacts to high quality urban wetlands.

Some will have you believe that the wetlands to be impacted by this project are of little value. They are wrong. DNR's regional wildlife biologist described the wetland as one of the best urban wetlands seen in his tenure.

In October, Wisconsin Wetlands Association visited the site with our co-petitioners Dr. Bud Harris and Dr. Robert Howe, and another colleague, Gary Fewless. All three are scientists who have dedicated their careers to the study of wetlands. All three work and live in Brown County. Attached to our testimony is a memo they provided describing the quality, characteristics, and functions of the wetland to be impacted by this project. They confirm DNR's findings that, despite significant encroachment, this wetland clearly still provides significant functional values in its present state and will be substantially harmed by the proposed development.

- Since August 31st, Wisconsin Wetlands Association and our co-petitioners have asked for one of two things:
  1. The chance to present the facts of this permit review and approval to an independent Administrative Law Judge; or
  2. The opportunity to participate in a good faith planning discussion with the applicant, the municipalities, local citizens, and other affected parties, to determine whether there is a way to move this proposed facility slightly further east in the 300 acre TIF District while also protecting the existing wetland resources.

We have been denied both opportunities. This despite numerous communications with former Secretary Matt Frank and the applicant where we asked about the status of the case and expressed a willingness to try to resolve the matter out of court.

Over the course of the last several weeks, Wisconsin Wetlands Association has been criticized by the applicant, in the media, and behind closed doors throughout this building. We have been painted as obstructionist and unreasonable. We assert that this is not a fair portrayal of our conduct in this matter.

In the last 10 years, Wisconsin Wetlands Association has reviewed and commented on hundreds of wetland fill permit requests. This is only the second contested case hearing we have requested seeking judicial review of a permit decision.

We are not opposed to planned development and believe there are creative solutions to this problem. But these kinds of problems are only solved when people are willing to get together around a table to talk. For the last five months, the only thing we have heard from John Bergstrom and his attorney is that the building has to go in that wetland. They have been unwilling to discuss even *the possibility* that there may be a solution to this problem that addresses everybody's concerns. And they have repeatedly reminded us that our options are to either work it out on their terms or this legislature is prepared to do so for them. Does this make us unreasonable, or them?

This case took yet another interesting turn last Friday when Bass Pro Shops made statements in the media that they would not fill wetlands and that they had made no commitments to enter the Green Bay Market. Their spokesperson claims, in the media and in a personal phone call with our Director, that prior to this controversy they had engaged in only **one** exploratory conversation with project proponents.

The approval of this project by the DNR was based on the needs of the prospective tenant as presented by the applicant. The application contains numerous statements which implied that: the prospective tenant was integrally involved in the review of project alternatives; had selected this site as its preferred alternative; and agreed that filling these wetlands was the only viable option for bringing its business to Green Bay.

Clearly the needs and interests of Bass Pro Shops were misrepresented or overstated. We maintain that this fill should not be approved unless, or until, this or some other tenant comes forward and says there are no other options.

---

Good legislation is that which applies the same set of standards in every case. Legislation that exempts a particular individual, business, or municipality from state wetland permit requirements is **not** good public policy. It sets a precedent for the passage of additional special-exception bills and erodes the integrity of the entire wetland protection program.

Since the inception of Wisconsin's wetland protection laws, the standard has been that permits will only be granted when there are no practicable alternatives to avoid and minimize impacts and, even then, the permit would not be granted if the project would have a significant adverse impact on wetland functions and values.

Though this bill applies to just one parcel, it makes a clear statement that these standards are no longer acceptable. This bill grants an exemption to fill the last remaining wetland in the immediate area, a high quality wetland at that, for a speculative real estate project, that may or may not even have a confirmed tenant. The applicant promised a suite of enhancements and to restore 4 acres of wetlands somewhere else. As of today, no mitigation plan has been presented.

If permission is granted to fill *this* wetland, under these circumstances, it is difficult to see how any wetland in the state can be protected. Promises of mitigation will always prevail. Regardless of the quality of the wetland to be destroyed or the potential of the proposed restoration site to replace those functions.



We are especially disappointed to see special legislation to address a matter that is currently undergoing judicial review. It circumvents our rights to due process and erodes public confidence that the government exists to openly and fairly serve the entire public.

We continue to be willing to meet with the Department of Natural Resources, the applicant, and municipal officials to engage in a rational planning process to resolve these issues and protect the State's resources. We respectfully request that you do not advance this legislation to a vote before the entire Assembly.



## Memorandum

**To:** Becky Abel, Executive Director, Wisconsin Wetlands Association

**From:** Dr. Hallett (Bud) Harris, Dr. Robert Howe, Gary Fewless

**Re:** Historic and current functional significance of the Lombardi Wetland at the proposed Argonne Street Retail site.

**Date:** December 15, 2010

---

At the request of the Wisconsin Wetlands Association, we submit the following observations about the above mentioned Lombardi Wetland. These comments are informed by: our combined professional experience; a review of wetland assessments recorded by Jon Brand and Richard Nikolai (Wisconsin Department of Natural Resources File IP-NE-2010-5-01621); a vegetation survey completed by Gary Fewless following his September 30, 2010 site visit, and an additional site visit on October 11, 2010 where all three of us were present.

We recognize the fact that the functional values of the Lombardi Wetland and other wetlands in the area have been degraded. However, this wetland clearly still provides significant functional values in its present state. The plant diversity of this site is high for an urban/suburban wetland and the wildlife habitat values are locally significant. Given the seasonal hydroperiod and undocumented inundation levels, we rank the flood and stormwater storage/attenuation values as moderately important. We also agree that the site contributes to water quality protection in the Beaver Dam Creek/Duck Creek watershed, has local aesthetic/recreational value, and contributes (although minimally) to groundwater protection. Wetland complexes with this degree of values and services are rare in urban settings. While wetland encroachment is common in this area, to our knowledge few, if any, urban wetlands in the greater Green Bay area continue to provide this level of ecosystem services.<sup>1</sup>

---

<sup>1</sup> The wetland complex adjacent to the Green Bay Airport is the only comparable site that comes to mind.

The functions and values of the Lombardi Wetland will be entirely eliminated in the proposed area (1.65 acres) of wetland fill; however, the proposed action will also impact the remaining adjacent wetland area. For example, the construction will further isolate the wetlands on the north end of the parcel from the forested wetlands to the south. This will be detrimental to wildlife by increasing habitat fragmentation. The loss of area from the existing wetland will also reduce its stormwater retention value. Any increase in disturbance by human activities will reduce the nesting value for Woodcock and Sandhill Crane, and will degrade breeding, stopover, foraging, and protective cover habitat for amphibians, deer, small mammals, and other resident and migratory wetland vertebrate species. Loss of wetland habitat and degradation of adjacent habitats also will reduce populations of plant pollinators (bees, wasps, butterflies, and other insects), natural predators (dragonflies, damselflies, hymenopteran parasitoids, predatory beetles, and others), and food resources for desirable species like hawks, owls, and wading birds. Additional alteration of the hydrology that results in drier conditions will also further degrade the remaining wetlands by increasing erosion and creating conditions that are favorable for the spread of *Phragmites australis* and other invasive species.

An evaluation of the impacts of the proposed project must consider the current and historical role of these wetlands in the watershed and the cumulative effects of this and prior actions. From aerial images as early as 1938 and ending in 2004 and from the Green Bay West topographic map, we can be reasonably confident that the Lombardi Avenue wetland was part of the Beaver Dam Creek Watershed that drains to Duck Creek and eventually into lower Green Bay. The hydrology of the area and the extensive forested wetlands (some of which persist yet today) have been markedly modified including channel modification as recently as the late 1990's or early 2000's. Before modification this wetland was part of an extensive complex of headwater wetlands draining to ecologically significant coastal wetlands of Green Bay.

The disruption and loss of these headwater wetlands has contributed significantly to the deterioration of coastal water quality and coastal wetlands of Green Bay and Lake Michigan. The undisputed decline

of these wetland complexes and their waters cannot be attributed to a single cause, as multiple disturbances, interacting processes, and past and present human activities all contribute.<sup>2</sup> However, to argue that the alteration or destruction of small or apparently isolated remaining wetlands is of no or little consequences disregards the fact that cumulative effects of many other small and purportedly isolated wetlands have led us to the situation that we have today.

Habitat fragmentation, which can compact resident wetland species of small mammals and amphibians, is another example where the cumulative impacts are substantial. We estimate no fewer than four species of small mammals and several species of frogs use the Lombardi Wetland. While none are endangered, all contribute to the food web dynamics of this urban/suburban ecosystem. Small organisms have limited dispersal ability, and those that are wetland dependant become vulnerable to extinction as isolated populations become separated by fragmentation.<sup>3,4</sup> Consequently, increasing human alteration of these wetlands will only exacerbate the already precarious ecological integrity and biodiversity at this site. Because metapopulations of wetland organisms will persist only through preservation of functional wetland mosaics,<sup>5</sup> impacts to this site may well have consequences on the biodiversity of other wetland complexes in the area. For example, this wetland may be especially significant to water birds and wetland invertebrates during wet years when other, less ephemeral wetlands, are flooded.

The conservation value of this site also has been underestimated because the wetland likely becomes especially valuable as migratory landbird stopover habitat during certain times of year. Emerging science reveals that wetlands like the Lombardi wetland (including wetlands that are significantly smaller than

---

<sup>2</sup> Bedford, B.L. and Preston, E.M. 1988. Developing the scientific basis for assing cumulative effects of wetland loss and degradation on lanmdscape function: status,perspectives, and prospects. *Environmental Management*, 12: 751-771.

<sup>3</sup> Soule, Michael E. 1986. *Conservation Biology: the science of scarcity and diversity*. Pp. 13-18; The fitness and viability of populations. Sinauer Associates, Inc. Sunderland, Mass.

<sup>4</sup> Gibbs, J.P. 1993. Importance of small wetlands for the persistence of local populations of wetlands-associated animals. *Wetlands*.13(1):25-31.

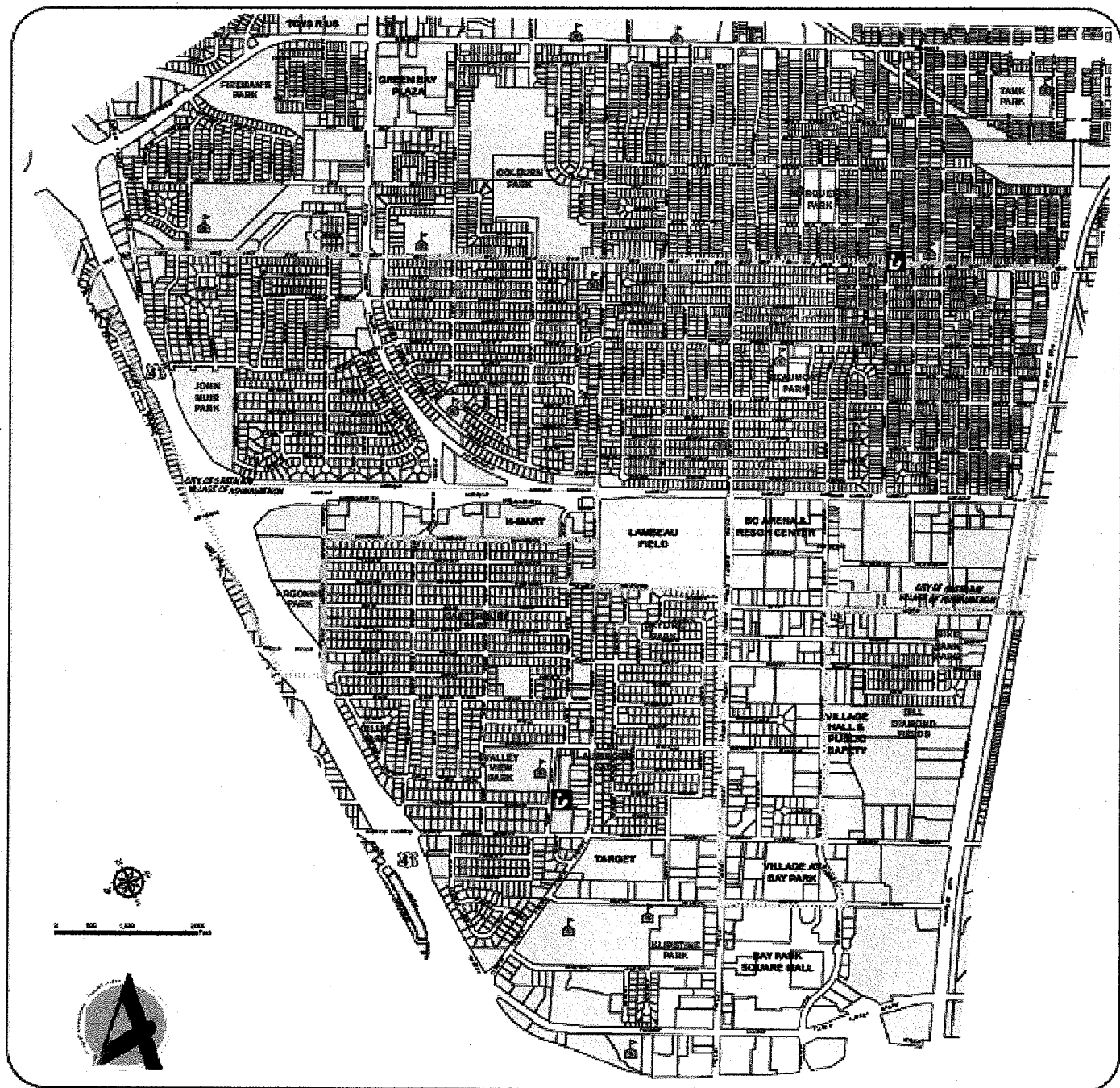
<sup>5</sup> Gibbs, J. P. 2000. Wetland loss and biodiversity conservation. *Conservation Biology*,14: 314-317.

this) can have critical seasonal importance to migratory landbirds or during extreme weather events.<sup>6</sup>

The ecological context of this wetland (urban wetland in close proximity to important coastal wetlands of the Great Lakes) and resource characteristics (floristic diversity, structural heterogeneity, presence of trees) indicate that this site has significant conservation value that extends well beyond Green Bay and even Wisconsin. Doppler radar studies have shown that wetlands along the Great Lakes, particularly those in urban areas, are critically important as emergency stopover habitat for scores of resource-depleted migratory bird species, including rare and threatened species that nest in this region. The Lombardi wetland, with its large size, urban context and proximity to Lake Michigan is such a wetland.

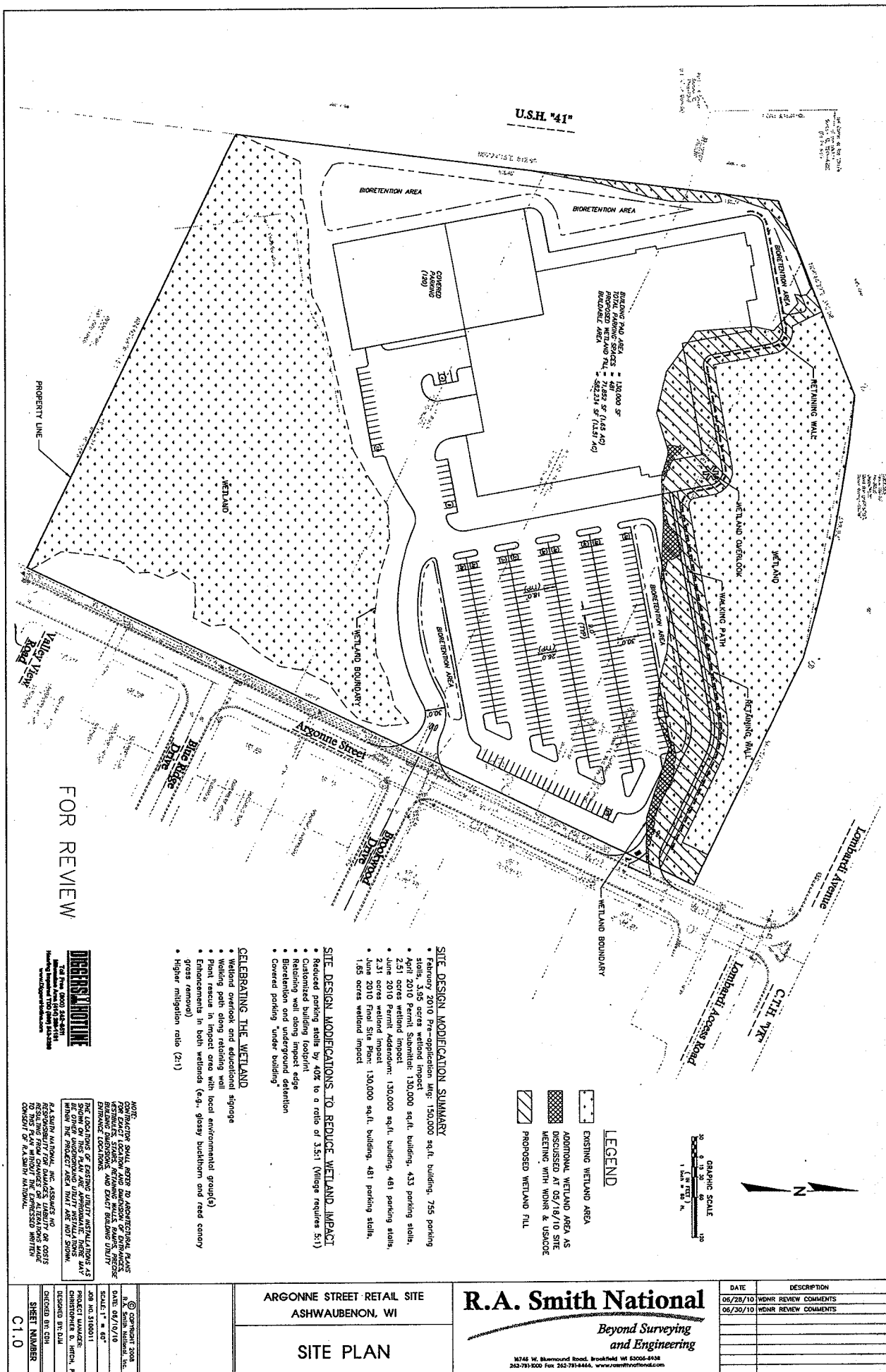
---

<sup>6</sup> Mehlmán, D.W., Mabey, S.E., Ewert, D.N., Duncan, C., Abel, B., Cimprich, D., Sutter, R.D., and Woodrey, M. 2005. Conserving stopover sites for forest dwelling migratory landbirds. *The Auk*, 122(4):1281-1290.









FOR REVIEW

**DIGEST HOTLINE**

Toll Free (800) 242-8571  
International Area (414) 258-1181  
Hearsting Incorporated TDD (414) 242-2222  
Hearsting Incorporated TDD (414) 242-2222

THE LOCATIONS OF EXISTING UTILITY INSTALLATIONS AS SHOWN ON THIS PLAN ARE APPROXIMATE. THERE MAY BE OTHER UNDERGROUND UTILITY INSTALLATIONS WITHIN THE PROJECT AREA THAT ARE NOT SHOWN.

R.A.S.MITH NATIONAL, INC. ASSUMES NO RESPONSIBILITY FOR DAMAGES, LIABILITY OR COSTS RESULTING FROM CHANGES OR ALTERATIONS MADE TO THIS PLAN WITHOUT THE EXPRESSED WRITTEN CONSENT OF R.A.S.MITH NATIONAL.

C1.0

ARGONNE STREET RETAIL SITE  
ASHWAUBENON, WI

## SITE PLAN

## R.A. Smith National

## Beyond Surveying and Engineering

36745 W. Bluemound Road, Brookfield WI 53005-8638  
262-781-3000 Fax 262-781-8466, [www.asnfrnational.com](http://www.asnfrnational.com)

[illegible]





## John Muir Chapter

Sierra Club - John Muir Chapter  
222 South Hamilton Street, Suite 1, Madison, Wisconsin 53703-3201  
Telephone: (608) 256-0565 Fax: (608) 256-4562  
john.muir.chapter@sierraclub.org <http://wisconsin.sierraclub.org>

### **Oppose Special Session SB 10, Removes Wetland Protections, Before the Senate Natural Resources & Environment Committee, 02/01/11, 11:00 AM, RM 330 SW**

Thank you for accepting our comments today. The Sierra Club – John Muir Chapter is comprised of 15,000 members and supporters of the nation's oldest, most influential grassroots environmental organization working to explore, enjoy, and protect wild areas throughout Wisconsin. The Sierra Club is here today to urge the members of the Assembly Natural Resources Committee to oppose Special Session SB 10.

As we mentioned to the Assembly Committee last week, we have several serious concerns about this proposal. Although this bill is worded carefully, the intent of this legislation is to appease a single developer. This is bad public policy that borders on unconstitutionality. This bill sets a dangerous precedent that could encourage other developers to request special exceptions to other laws needed to protect natural resources, in the event that they don't fit in with their plans.

If passed, SS SB 10 would circumvent an ongoing contested case in which a nonprofit group has exercised their right to raise legitimate concerns about the permit decision that was made on this Brown County wetland. Allowing the current process to move forward might result in discovering a more suitable alternate location for this development that doesn't destroy wetlands or economic opportunities. Recent statements show that the potential client who would benefit from SS SB 10, Bass Pro, agrees that it is unnecessary and short-sighted to destroy wetlands in order to create jobs.

We are concerned with any bill that reduces protections on isolated wetlands. After the Supreme Court gutted isolated wetlands protections in 2001, Wisconsin was proud to be one of the first states to respond with a bill that restored these valuable areas in our state. The bill to protect isolated wetlands was signed into law by Gov. McCallum, after passing the legislature with unanimous bipartisan support. Legislators on both sides of the aisle appreciated the critical, unique habitat and flood-reducing benefits that wetlands provide. Now Special Session SB 10 threatens to undermine the basic intent of this law.

The Sierra Club does not accept the idea that enhancing wetlands in other areas, as proposed in the current development, makes up for the permanent loss of this high-quality urban wetland. We also don't accept the idea that this bill was needed to reign in an agency. The DNR was simply carrying out its charge by allowing all stakeholders to have a voice and implement the laws on the books. Stakeholders include not only developers, but also local residents, over 159 Sierra Club members who have taken action on this issue over the past week, and many other hunting, fishing, and environmental groups. Passing a bill to prevent that from happening makes us much more concerned about the influence of money in politics than agency heavy-handedness.

For these reasons, we urge the members of this Committee and the Legislature to oppose Special Session SB 10. Thank you for considering our comments on this important matter.





# RIVER ALLIANCE of Wisconsin

February 1, 2011

Senator Neal Kedzie, Chair  
Senate Committee on Natural Resources and the Environment  
330 Southwest  
State Capitol

RE: Senate Bill 10, Brown County Wetland Exception

Dear Senator Kedzie and Committee Members:

The River Alliance of Wisconsin is a statewide, nonpartisan, nonprofit organization representing over 3200 citizens and businesses and 150 local watershed groups throughout the state. We advocate for protection and restoration of the state's waters.

Federal and state law requires that projects must first consider all practicable alternatives to avoid filling a wetland before DNR can grant a permit to fill. At both the federal and state level, *avoidance* must always be adequately considered before *enhancement* of other wetlands, or mitigation for wetland loss.

In early 2001, there was some question as to whether this requirement applied to smaller wetlands physically disconnected from other surface waters. The state of Wisconsin resoundingly said yes, these wetlands are equally valuable and require equal protection. Brand new Republican Governor McCallum called a special session much like the current special session, and 2001 Act 6 passed unanimously, both in the Democrat-led Senate and in the Republican-led Assembly to ensure the same protections applied to so-called isolated wetlands.

SB 10 represents a significant departure from the unanimous, bipartisan decision of ten years ago. As written, this bill removes state oversight of not just isolated wetlands in a particular region of Brown County, but all wetlands, even those associated with rivers and lakes.

The genesis of this bill was to resolve a dispute over a specific wetland in the Green Bay area. A developer proposed to fill a portion of a wetland, DNR issued a permit to allow the fill, and the permit has been challenged. If the intent was to exempt just this one particular wetland, and even if the bill was amended to do just that, it still poses an unacceptable threat to all natural resources. Wisconsin Wetlands Association questioned whether the property owner followed the law and adequately considered configuring his project to avoid having to do any wetland filling. They posed this question by requesting a contested case hearing. This bill usurps the only process available for citizens to question agency decisions.

*We Save Rivers*

a contested case hearing. This bill usurps the only process available for citizens to question agency decisions.

As written, SB 10 dangerously overreaches, and threatens basic public rights even if amended to apply to only one specific wetland. If the property owner and DNR followed the law, they should expect a positive outcome through the contested case hearing – a hearing which should have been scheduled months ago. Special treatment through a legislative remedy is just plain wrong; please reject SB 10.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori Grant", with a stylized flourish at the end.

Lori Grant  
Policy Program Manager

# Wisconsin Wildlife Federation

Chairman Kedzie, Members of the Natural Resources and Environment Committee. My name is ~~George Meyer~~ and I am Executive Director of the Wisconsin Wildlife Federation. The Federation is comprised of 160 hunting, fishing, trapping and forestry groups located throughout Wisconsin including several conservation organizations in Brown County. Thank you for the opportunity to testify here today on Senate Bill 10, which exempts certain wetlands from wetland protection regulations in Brown County. Our testimony is in opposition to the bill because of the adverse effect the proposal will have on fish and wildlife habitat in Brown County.

Senate Bill 10 was drafted for the purposes of allowing the placement of fill in 1.65 acres of wetlands near the intersection of Highway 41 and Lombardi Avenue in Ashwaubenon, Wisconsin. However, SB 10 as drafted will have far greater impact on wetlands in the county because it would remove from DNR wetlands jurisdiction any wetland less than 3 acres in size if a municipality zones the property business and adopts a TIF District for the property. There are well over 1000 acres of such wetlands, three acres or less in size in Brown County that could be subject to development. The bill as drafted would apply to "isolated" non-federal wetlands and also to federally-regulated wetlands that includes wetlands adjacent to or in lakes and streams in the county. As drafted, the bill would also exempt such wetlands from Chapter 30 jurisdiction which would allow a developer to fill in up to three acres of wetlands in navigable streams and lakes in the county. The bill as drafted would have a substantial adverse impact on fish and wildlife habitat including habitat used for migratory waterfowl.

The Federation is also concerned that the bill exempting many wetlands from wetland, lake and stream protection in Brown County would serve as a model and precedent for removing protection from wetlands, streams and lakes in other counties. This would obviously greatly expand the potential for wetland loss in the state.

The Wisconsin Wildlife Federation has been authorized to indicate that the following organizations all join in this testimony and oppose SB 10: **the Wisconsin Waterfowl Association, the La Crosse County Conservation Alliance, the Dane County Conservation League, the Green Bay Duck Hunters Association, the Brown County Conservation Alliance, the Green Bay Area Great Lakes Sports Fishermen, the Clean Water Action Council and the Wisconsin Trappers Association.**

On behalf of the Federation and the listed groups, thank you for the opportunity to testify before the Senate Natural Resources and Environment Committee.

Submitted by:  
George Meyer, Executive Director  
Wisconsin Wildlife Federation  
February 1, 2011





# **Wisconsin Ducks Unlimited Testimony**

## **Senate Bill 10**

### **Senate Natural Resources and Environment Committee**

#### **Chairman Neal Kedzie**

Good day Chairman Kedzie and members of the Senate Natural Resources and Environment Committee. On behalf of Ducks Unlimited's 39,000 members in Wisconsin, we are voicing our disapproval of Senate Bill 10. This legislation sets a bad precedent for governance and protection of Wisconsin's wetland and water resources, and we formally oppose such legislation. Wisconsin led the nation in protecting valuable isolated wetlands with passage of its 2001 Wisconsin Act 6 legislation following the U.S. Supreme Court's SWANCC decision. This action has led to the conservation of wetlands important to our citizens in the form of clean water, fish and wildlife habitat, and outdoor recreation – all which have an important role in sustaining and improving our economy in the state.

DU understands that sometimes wetlands and development are in conflict. We believe Wisconsin regulations provide for resolution of these conflicts, and we stand ready to work with the affected parties to resolve the issue with the Highway 41 and Lombardi Avenue wetland. We believe that an attempt should be made to resolve this specific situation, and Ducks Unlimited offers our expertise to work with the affected parties to advance wetland conservation and improving our economy and jobs in the Green Bay region.

Again, Ducks Unlimited does not support this legislation and urges members of the Natural Resources Committee to oppose Senate Bill 10. Thank you for the opportunity to voice our concerns.

Nels Swenson

Wisconsin State DU Chairman

1358 Pinion Trail

Oregon, Wisconsin 53575

608-835-7493



# **Wisconsin Wildlife Federation**

January 31, 2011

Contact: George Meyer, Executive Director, Wisconsin Wildlife Federation: 608-516-5545

## **Wildlife Federation Asks Bass Pro Shops to Still Come to Wisconsin; Requests Governor, DNR, Developer and Wetland Association to Find Acceptable Solution**

**Poynette:** Today, Jack Nissen, (Dousman), WWF President, sent a letter to Bass Pro Shops Co., James Hagale, indicating the Federation's strong support for Bass Pro Shops to open a retail store in the Green Bay Titledown develop. Indicating that of the 160 hunting, fishing and trapping clubs belonging to the Federation, over 30 are located within 50 miles of Green Bay, Nissen wrote:

*"The Federation greatly admires Bass Pro Shops and the quality products that it provides to sportsmen and women. We also admire Bass Pro Shops very strong conservation ethic. We were not surprised with your statement last week indicating the policies of Bass Pro Shops to restore wetlands and not to degrade or fill wetlands in your development projects. Your Founder, Johnny Morris, has been a long-time national conservation leader and this legacy has continued in the policies of the Bass Pro Shops organization."*

*The Wisconsin Wildlife Federation and its members strongly desire that Bass Pro Shops open a store in the Green Bay area, preferably as part of the Titledown Development being promoted by the Green Bay Packers. The Federation is encouraging Governor Scott Walker, the Department of Natural Resources, Mr. John Bergstrom and the Wisconsin Wetlands Association to reach an agreement which will allow a store of your caliber to be built in the Titledown Development."*

In a second letter to Governor Scott Walker, DNR Secretary, Cathy Stepp; Developer John Bergstrom; and Becky Abel, Wisconsin Wetlands Association's Executive Director, Jack Nissen, WWF President, asked that Bergstrom, the Wetlands Association and DNR enter into "good faith" negotiations to resolve the dispute of the location of a Bass Pro Shop store in Ashwaubenon. Nissen indicated:

*"The development of a Bass Pro Shop in the Titledown project is a resolvable issue. This issue can be resolved by Mr. Bergstrom, Ms. Abele and the DNR entering into good faith"*



*negotiations with all options on the table. We would strongly urge that the Village of Ashwaubenon be included in the discussions. Far more complex development issues have been resolved in the past by having DNR and all other parties to a dispute, sitting down around a table and working in good faith to find a solution that is in the interest of all parties and Wisconsin citizens. We know that the Wisconsin Wetlands Association has been seeking such discussions since August, 2010. The Wisconsin Wildlife Federation, on behalf of its members, stands ready to assist in such discussions."*

The Wisconsin Wildlife Federation is the state's largest conservation organization representing 160 hunting, fishing, trapping and forestry-related organizations with a combined membership of over 100,000 people. The Federation, headquartered in Poynette, Wisconsin, is dedicated to conservation education and the advancement of sound conservation policies on a state and federal level. For further information contact George Meyer, Executive Director at (608) 516-5545.





# WISCONSIN WILDLIFE FEDERATION

MACKENZIE ENVIRONMENTAL CENTER

W7303 COUNTY RD CS & Q, POYNETTE, WI 53955 • (608) 635-2742 • (800) 897-4161

[www.wiwf.org](http://www.wiwf.org)

---

AFFILIATED WITH THE NATIONAL WILDLIFE FEDERATION

January 31, 2011

President:

Jack Nissen

Dousman, WI

262-370-8154

[countyhighway@yahoo.com](mailto:countyhighway@yahoo.com)

Mr. James Hagale, President  
Bass Pro Shops  
Springfield, Missouri

First Vice President:

Chuck Matyska

Cecil, WI

715-745-6382

[mmatyska@yahoo.com](mailto:mmatyska@yahoo.com)

Dear Mr. Hagale:

I am writing you as President of the Wisconsin Wildlife Federation. The Federation is the largest conservation organizations in Wisconsin, comprised of over 160 hunting fishing and trapping groups. At least thirty of those clubs are located within 50 miles of Green Bay, Wisconsin.

Second Vice President:

John Wagner

Oconomowoc, WI 53066

[ext2022@sbcglobal.net](mailto:ext2022@sbcglobal.net)

The Federation greatly admires Bass Pro Shops and the quality products that it provides to sportsmen and women. We also admire Bass Pro Shops very strong conservation ethic. We were not surprised with your statement last week indicating the policies of Bass Pro Shops to restore wetlands and not to degrade or fill wetlands in your development projects. Your Founder, Johnny Morris, has been a long-time national conservation leader and this legacy has continued in the policies of the Bass Pro Shops organization.

Treasurer:

Larry Laehn

Milton, WI

920-540-9927

[btw@netzero.net](mailto:btw@netzero.net)

The Wisconsin Wildlife Federation and its members strongly desire that Bass Pro Shops open a store in the Green Bay area, preferably as part of the Titledown Development being promoted by the Green Bay Packers. The Federation is encouraging Governor Scott Walker, the Department of Natural Resources, Mr. John Bergstrom and the Wisconsin Wetlands Association to reach an agreement that will allow a store of your caliber to be built as part of the Titledown Development.

Secretary:

Tom Nissen

Dousman, WI

262-719-5295

[t\\_bone3624@yahoo.com](mailto:t_bone3624@yahoo.com)

Executive Director:

George Meyer

608-516-5545

[georgemeyer@tds.net](mailto:georgemeyer@tds.net)

Please keep an open mind in your decision-making for Bass Pro Shops and thank you for Bass Pro Shops continued strong conservation ethic.

Business Manager:

Jennifer Evans

608-635-2742

[jennifer@wiwf.org](mailto:jennifer@wiwf.org)

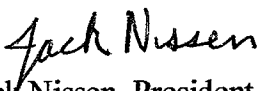
Sincerely yours,

MEEC Educator:

Ruth Ann Lee

608-635-8105

[ruthann@wiwf.org](mailto:ruthann@wiwf.org)

  
Jack Nissen, President  
Wisconsin Wildlife Federation

MEEC Facility:

Dan Lee

608-635-8110

[daniel.lee@wisconsin.gov](mailto:daniel.lee@wisconsin.gov)







# WISCONSIN WILDLIFE FEDERATION

MACKENZIE ENVIRONMENTAL CENTER

W7303 COUNTY RD CS & Q, POYNETTE, WI 53955 • (608) 635-2742 • (800) 897-4161

[www.wiwf.org](http://www.wiwf.org)

---

AFFILIATED WITH THE NATIONAL WILDLIFE FEDERATION

Governor Scott Walker  
Secretary Cathy Stepp, DNR  
Mr. John Bergstrom  
Becky Abel, Wetlands Association

January 31, 2011

President:  
Jack Nissen  
Dousman, WI  
262-370-8154

[countyhighway@yahoo.com](mailto:countyhighway@yahoo.com)

First Vice President:  
Chuck Matyska  
Cecil, WI  
715-745-6382  
[mmatyska@yahoo.com](mailto:mmatyska@yahoo.com)

Second Vice President:  
John Wagner  
Oconomowoc, WI 53066  
[ext2022@sbcglobal.net](mailto:ext2022@sbcglobal.net)

Treasurer:  
Larry Laehn  
Milton, WI  
920-540-9927  
[btitwi@netzero.net](mailto:btitwi@netzero.net)

Secretary:  
Tom Nissen:  
Dousman, WI  
262-719-5295  
[t\\_bone3624@yahoo.com](mailto:t_bone3624@yahoo.com)

Executive Director:  
George Meyer  
608-516-5545  
[georgemeyer@tds.net](mailto:georgemeyer@tds.net)

Business Manager:  
Jennifer Evans  
608-635-2742  
[jennifer@wiwf.org](mailto:jennifer@wiwf.org)

MEEC Educator:  
Ruth Ann Lee  
608-635-8105  
[ruthann@wiwf.org](mailto:ruthann@wiwf.org)

MEEC Facility:  
Dan Lee  
608-635-8110  
[daniel.lee@wisconsin.gov](mailto:daniel.lee@wisconsin.gov)

Dear Governor Walker, Secretary Stepp, Mr. Bergstrom, Executive Director Abel:

On behalf of the Wisconsin Wildlife Federation, I have enclosed a letter that we have sent today to Mr. James Hagale, President of Bass Pro Shops asking that Bass Pro still continue with their plans to become part of the Titledown Development project in Ashwaubenon. The Federation is comprised of over 160 hunting, fishing and trapping organizations, with over 30 clubs located within 50 miles of Green Bay.

It was not a surprise to the Wildlife Federation that Bass Pro Shops indicated that it did not want to develop a store in a location where wetlands would be filled regardless of mitigation efforts. Bass Pro and its Founder Johnnie Morris have been longtime conservation leaders and supporters of wetlands protection.

The development of a Bass Pro Shop in the Titledown project is a resolvable issue. This issue can be resolved by Mr. Bergstrom, Ms. Abel and the DNR entering into good faith negotiations with all options on the table. We would strongly urge that the Village of Ashwaubenon be included in the discussions. Far more complex development issues have been resolved in the past by having DNR and all other parties to a dispute, sitting down around a table and working in good faith to find a solution that is in the interest of all parties and Wisconsin citizens. We know that the Wisconsin Wetlands Association has been seeking such discussions since August, 2010. The Wisconsin Wildlife Federation, on behalf of its members, stands ready to assist in such discussions.

On behalf of the over 100,000 sportsmen and women that we represent, thank you for your efforts to resolve this matter in a positive way and to bring Bass Pro Shops to Wisconsin.

Sincerely yours,

Jack Nissen, President  
Wisconsin Wildlife Federation



## Testimony on February 1, Special Assembly Bill 10

*Submitted By Hallet J. Harris*

My name is Hallet J Harris, and I live at 2617 Sunrise River Ct. DePere, WI. I am a Professor Emeritus from the University of Wisconsin, Green Bay. As a co-petitioner of the Lombardi Avenue Wetland Contested Case hearing I have requested my comments be read into the Senate hearing record. Before voting on this bill I ask you to consider several points outlined below.

- The wetland in question has been mischaracterized by individuals who have little or no experience in evaluating wetlands. I and two colleagues at the University of Wisconsin, Green Bay, who have a combined sixty plus years of Wetland research and experience, have documented the value of the wetland and made that assessment available to the Assembly hearing. I ask that before voting you read the assessment submitted and again provided here.
- In passing this special purpose legislation you will in effect disregard the carefully considered existing legislation designed to protect remaining wetlands such as the one in question. This sets an unfortunate precedent and will only encourage other "special interest" individuals or groups to ask for further legislative tinkering. Passing this bill makes even less sense given a statement reported in the Green Bay Press Gazette, by Bass Pro spokesman Larry Whitley, who said, "we were unaware of any wetland issues and have not and will not be in favor of doing anything to harm wetlands, wherever they may be." It appears

Bass Pro shares the enlightened view of the value of wetlands which is inherent in our own existing regulations.

- Even before Aldo Leopold first published his book, Sand Country Almanac in 1949, Wisconsin has had a reputation of being a leader in conservation. Ask yourself before voting whether this special interest piece of legislation is consistent with that long held reputation and whether it is really in the best interest of the public and public policy.
- A fourth point I wish to make is that Wisconsin has lost over fifty percent of its wetlands, piece by piece. When it comes to coastal wetlands in the bay of Green Bay and surrounding headwater wetlands, the figure is closer to a 90% loss. These losses have had a profound effect on water quality in our streams and particularly in receiving water like Green Bay. The cost of engineering a solution for degraded water quality and a degraded environment will be very high. It is reasonable to consider how much better off we may have been if we had practiced "smart growth" and protected the hydrologic buffering that wetlands provide. Instead, by passing this special interest legislation, you will in effect undo the good that has been accomplished with prudent legislation and further deplete the environmental heritage you leave your children and grandchildren. You may say and think that this small piece of wetland cannot matter, but it is not an isolated and singular act, rather it is the accumulative effect that counts. One small cancer cell eventually has an accumulative effect on the whole. And so it is with natural systems, you will eventually pay the price or foist it off on future generations. In Latin, conservare means "to preserve." Perhaps a true conservative will be consistent in all matters, not just fiscal policy.

**Konopacki, Larry**

---

**From:** Johnson, Dan  
**Sent:** Tuesday, February 01, 2011 10:30 AM  
**To:** Clark, Lauren; Duerkop, Nathan; Kelly, Scott; Konopacki, Larry; Letzing, Rachel; McGuire, Paula; Perrine, Nicholas; Sargent, Justin; Sen.Galloway; Sen.Holperin; Sen.Larson; Sen.Moulton; Sen.Wanggaard; Sen.Wirch; Shannon-Bradley, Ian; Summerfield, Craig  
**Subject:** Documents for distribution  
**Attachments:** Comments/Recommendations for Bergstrom Corp. Wetland WQC IP-NE-2010-5-01621; Bergstrom Wetland fill-Hwy41-Lombardi Ave.doc; Bergstrom Wetland fill-Hwy41-Lombardi Ave-GB6-7-10.doc; Letters opposed to AB 10.pdf

Hello –

Representative Brett Hulseley has requested the attached documents be distributed to the Committee for today's hearing.

Thank you.

Dan Johnson

Clerk, Senate Natural Resources and Environment Committee

**State Senator Neal Kedzie, Chair**

11<sup>th</sup> Senate District

608.266.2635

1911. 12. 12. AM

1911. 12. 12. AM

1911. 12. 12. AM

1911. 12. 12. AM

1911. 12. 12. AM

1911. 12. 12. AM

1911. 12. 12. AM

1911. 12. 12. AM

1911. 12. 12. AM

1911. 12. 12. AM

1911. 12. 12. AM

1911. 12. 12. AM

1911. 12. 12. AM

1911. 12. 12. AM

**Konopacki, Larry**

---

**From:** "Brand, Jon C - DNR"

**Sent:** Friday, July 02, 2010 8:41 AM

**To:** "Baker, Bruce J - DNR"; "Rasmussen, Russell A - DNR"; "Kazmierczak, Ronald - DNR"

**Cc:** "Stoll, Richard C - DNR"; "Lehmann Kerler, Liesa K - DNR"; "Brand, Jon C - DNR"

**Subject:** Comments/Recommendations for Bergstrom Corp. Wetland WQC IP-NE-2010-5-01621

The following are my comments/recommendations pertaining to the application for wetland water quality certification.

At this time based on my review, which included comments and a recommendation from Dick Nikolai - wildlife biologist I question whether the proposed project meets the required standards in NR 103.

Granting WQC for this project may set a precedent for future Department review of similar development associated with potential wetlands impact. Based on awareness of this decision, it may become increasingly difficult to maintain the integrity of the wetland program.

The latest revised proposal states that 1.65 acres of wetland would be impacted/filled.

These are comments/reservations regarding the proposed project.

- The applicant has identified 11.39 acres of upland on the property that has the potential for development. There is adequate acreage/square footage for a large size commercial development.
- The wetland functional value is considered to be high. The wetland type had largely been identified to be "sedge meadow". Comments from Dick Nikolai express the value of this wetland. Placement of fill in 1.65 acres of this wetland would have a significant adverse impact on this wetlands functional value.
- There appears to be an alternative that meets the applicants criteria for location. The criteria stated in the application is that the business be located adjacent to, and have direct access to a U.S. highway exit. The location at STH 29 and USH 41 meets the location and size criteria. It is my understanding that this property is available.

Jon Brand  
Water Management Specialist  
Green Bay Basin  
(920) 662-5466





# CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: May 19, 2010

FILE REF: 2300

TO: Jon Brand

FROM: Dick Nikolai

SUBJECT: Bergstrom Wetland (Hwy 41 & Lombardi in Green Bay)

We investigated the area (14 acres total with possible fill of wetlands of 2.5+ acres) with various professionals including representatives for engineering and ecological services for Bergstrom on May 18, 2010. The wetland in question lies near Highway 41 and Lombardi Avenue in Ashwaubenon near the stadium. When arriving I was greeted by a pair of Sandhill cranes that were milling around near the wetland to be filled. They acted as if they either had a nest or some young. Later Ginny Plumeau indicated they had seen them with one young when she had wandered the property. Because of that disturbance the adults wandered away before any picture was taken.

We transversed the wetland designated to be filled in a manner going from east to west to cover the length of the area and also transversed the wetland by going in a zigzag pattern by going north and south to identify plants and wildlife sign that inhabited the wetland. Since previous disturbance had occurred prior to my arrival, wildlife may have been missed that utilized the property from that glimpse of time which may have been pushed out. The wetland was previously mowed sometime in late summer to fall 2009 eliminating the structure (density, height & amount of dead matted material covering the soil) of the vegetation.

Presence of trees, shrubs, sedges, grasses and forbs were noted within the wetland which was beginning to grow. The wetland description best fits a sedge meadow with areas of shrub-carr with deeper pockets of water having cattails. Primarily phragmites was present only on the disturbed portions near the highway fence and already filled in portions of what probably was a larger wetland complex. In the proposed wetland to fill, few invasives were present. The area largely comprised of sedges with pockets of cattails and alder. *From an urban area this was one of the best intact wetlands present that I have seen in my tenure.*

Species of plants noted in the wetland were bottle gentian, marsh marigolds, Jack-in-the-pulpit, Carex (at least four species—Lake Sedge along with some hummock sedge being two of them), nettles, alder, willow-few shrubs but several trees were cut, wild iris, cattails, marsh milkweed, potamogeton sp, asters, goldenrod, mints and monkeyflower. On the south end of the wetland were a few upland pieces which had starflower, Canada mayflower, bastard toadflax, oaks, large-leafed aster and mayapple.

Here is a list of wildlife sign seen on the wetland:

Actual presence of species was noted on Sandhill cranes (pair), Geese (five adults with two pair having a total of nine goslings), robins, red-wing blackbirds (four pairs noted along the fence), morning doves (30+) using the area for water and one nest of two eggs on the wetland proper, female woodcock disturbed on nest with three eggs, killdeer and a song sparrow. Presence of species was noted of muskrat (trail, feces & cuttings) between the fence and the road, a successful goose nest with five amniotic membranes and deer tracks. In the wooded wetland to the west, Baltimore oriole's were seen picking up nesting material, singing in the tree canopy and sparing for territory. Either a hairy or downy woodpecker was seen near some cavities in the trees where the vegetation prevented the correct identification. Some cedar wax-wings were present in the tree canopy and flying to and from the white pines. No amphibians were present in the wetland to be filled or any reptiles. For amphibians the wetland was probably dry last fall as well as late spring so mortality could have taken place with our open winter.

Did find some leopard frogs (two) and green frogs (10+) on the dug ditch to the south. Deeper water exists so freeze outs probably were prevented with suitable habitat to bury down in the mud and debris on the bottom of the ditch.

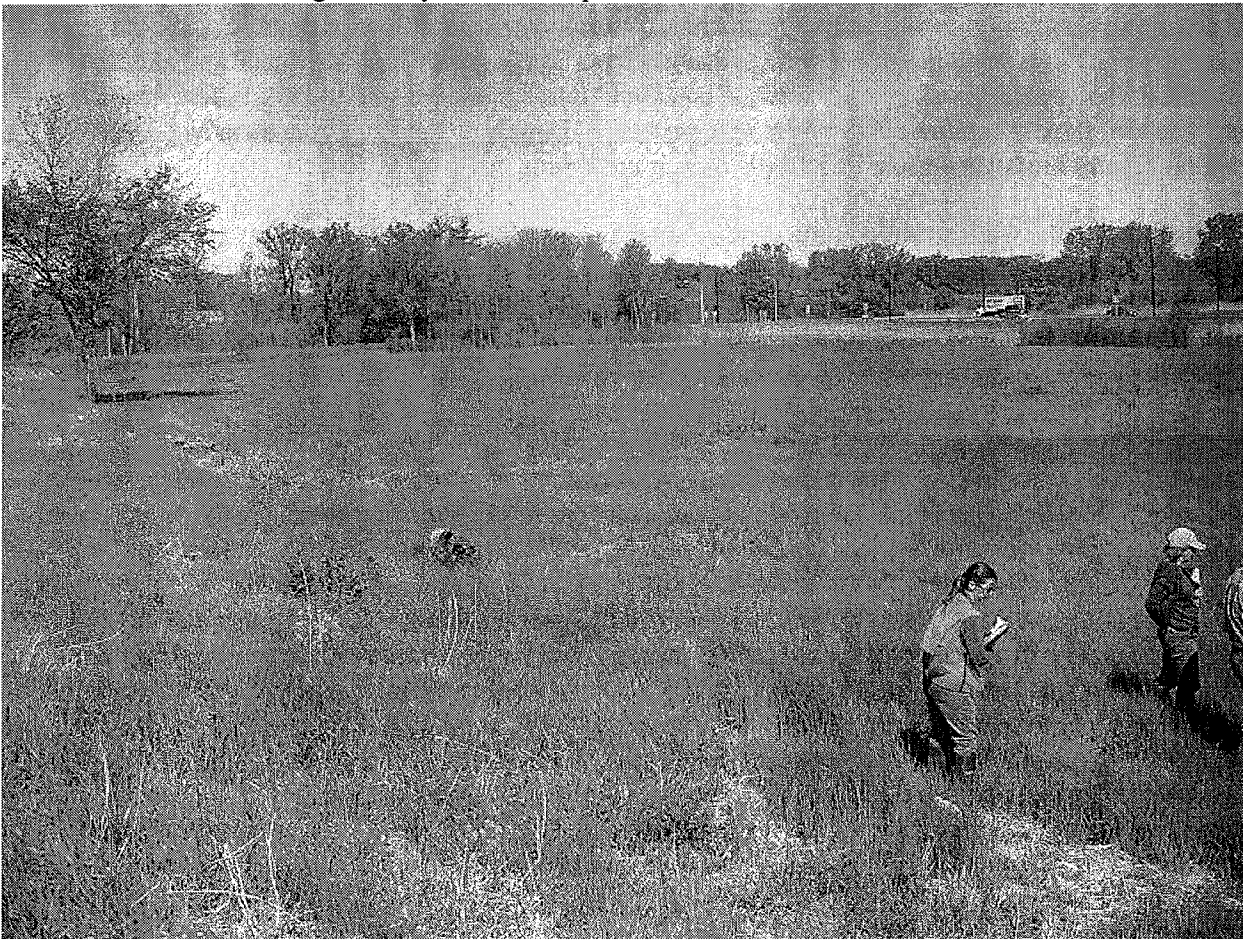
The wetland suggested to be filled contains a nice mix of habitat for wildlife to exist as noted by the species



observed. This corridor follows along on the west end of the property to more wetlands of forest as well to the south of the overall property. All the needs of wildlife are existent within a short area. If the structure of the wetland would be maintained it would probably add to the diversity of use by wildlife. The current fill on the property does block flow of water from the west to the wetland but it survives quite well. My recommendation is to leave the wetland alone and capitalize on its quality for people to view and absorb the full functions of what a wetland does like prevents flooding, settles out contaminants and silt, offers wildlife habitat to survive and if nurtured can prevent invasives from dominating whole communities. **As mentioned previously this is one of the best urban wetlands in my tenure and deserves to remain functional and intact. Project can be completed on the other remaining acres preserving the wetland and its corridor of habitat for wildlife to successfully exist.** The wetland needs to be buffered with native vegetation for at least 33 feet on the current fill to ensure it continues to be functional from human impacts like dumping of snow from parking lots or deposition of litter.



Aerial view of site showing roadways and development.



View of the wetland looking northwest from the existing fill.



Wetland had an abundance of wildlife using it like geese, doves, Sandhill cranes & woodcock.



Bottle gentian was found in several areas within the wetland.

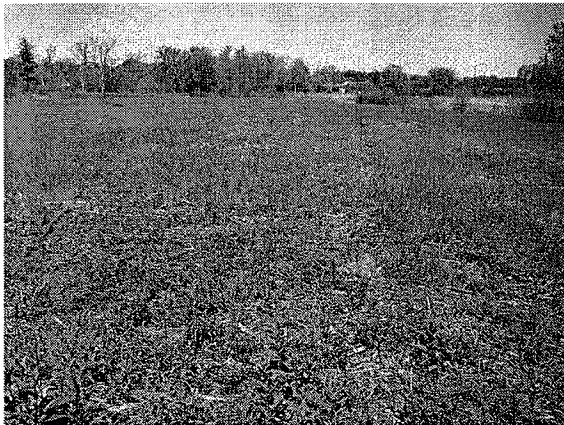


Ditch is located to the south of the property and heads west. Area had lots of frogs along this corridor of open water. Phragmites was prevalent again where disturbed areas were created.





Woodcock nest found within the sedge meadow wetland.



Looking almost west from the NE corner of the wetland. Note the open aspect where the alder has been mowed and mustard is blooming. Wetland was intact, functional and offering corridors for wildlife to inhabit. Wetland had good structure before mowing, tying in attributes of height, density and structural debris on the ground needed for a variety of wildlife that existed before that disturbance other than what was noticed.



Swales are common within this wetland. They are somewhat deeper containing cattails and retain the water above the soil longer. Sites like this are attractive for shorebirds and waterfowl to find food as well as attract them for mating.

# CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: June 9, 2010

FILE REF: 2300

TO: Jon Brand

FROM: Dick Nikolai

SUBJECT: Bergstrom Wetland (Hwy 41 & Lombardi in Green Bay)

Note that I did a follow-up check date on June 7 around 13:30 on the wetland seen initially on May 18, 2010. Spent about an hour quickly checking on plant species, wildlife usage and checking the area surrounding the staking for the requested fill areas.

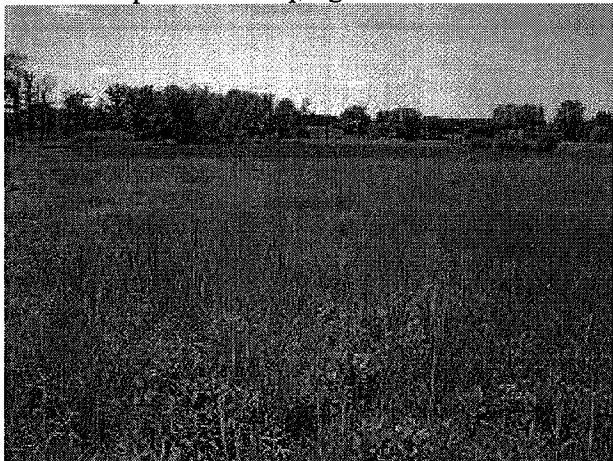
Vegetation was quickly growing back from the cut over wetland. Some structure of habitat was taking place so as to be attractive for wildlife as mentioned in my previous assessment. Since this was mid-day not a whole lot of wildlife activity occurred or was seen except for two species—red-wing blackbirds and spotted sandpipers. The red-wings were utilizing the cattails for nesting because of the increased growth and the sandpipers were using a number of areas of the wetlands. In particular, the sandpipers were using areas that were to be filled. These contained sedge as well as pockets of sedge and cattail with up to several inches of water. These small flat areas of either mud or shallow water were utilized for probing or catching invertebrates and used as a nursery area for their young of a few days. While I did not get a picture of the young (size of a half-dollar), I did capture one of the adults on camera (see below).



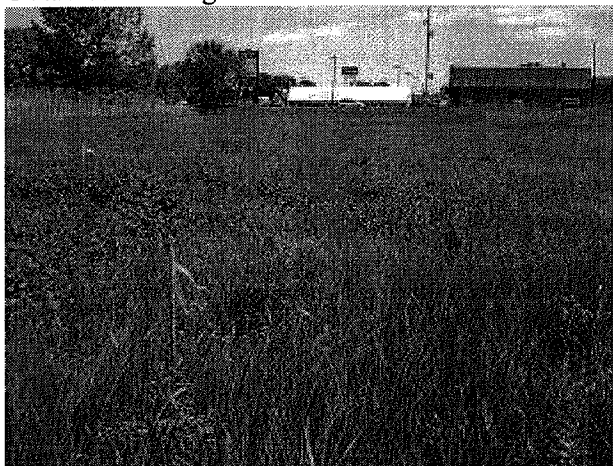
Notice some of the habitat structure needed for this particular species in addition to the sedge areas.



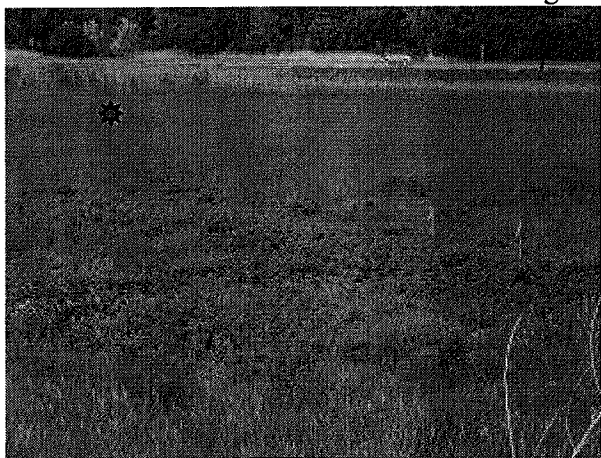
Wanted to point out the progression of the habitat and its progression to survive.



Overview looking west 6-7-10.



View on June 7 looking east where the woodcock nest was located near the alder & sedge in May.



View on June 7 looking north on the west end of fill area. Note flags on picture. A red dot shows approximately where the spotted sandpiper was photographed when a young one was spotted.



Two species of fern within the wetland as pictured above in the to photos.



Iris is flowering. Along with this forb species growing in the wetland were jewelweed, Joe-pye weed, marsh milkweed, blue vervain, bottle gentian, nettles, wild mint, common bugleweed-another mint, Great lobelia, Ironweed and tufted loosestrife which follows.



Tufted loosestrife (Lysimachia thyrsiflora)—edges of  
bogs &  
marshes & swallow water areas.





---

**From:** Daniel Nevers [mailto:dpnevers@wisc.edu]  
**Sent:** Wednesday, January 26, 2011 10:09 AM  
**To:** Rep.Mursau@legis.wisconsin.gov; Rep.Rivard@legis.wi.gov  
**Cc:** Wisconsin Wetlands Association  
**Subject:** Proposed wetlands legislation

Dear Representative Mursau

I am contacting the Legislative Committee on Natural Resources regarding the deregulation of Wisconsin wetlands of less than 2 acres. As I cannot attend the hearing scheduled for this morning I am asking that this e-mail be shared with Committee members and be entered into the record. I have also sent this message to my legislative representatives.

These are bodies of water that are commonly called "potholes", and may, in many cases escape notice. However, I am writing as an individual because I, and many others in the "Wisconsin Wetlands Association" think such neglect is mistaken.

I hope we are all aware of the beauty and value of Wisconsin natural resources. It is frequently the literal mainstay of our lives, and in many cases, the reason why we are in Wisconsin and we continue to value our relationship to the land, even as we live in urban areas. In fact, it may be that we value our natural resources because, by living in developed areas we can see the progress of development, in both large instances, where there may be a suburb size development where there was once farmland and small animal cover among the borders, and, also in small areas, where a "pothole" size pond provided nesting area for ducks and cover for frogs, and then disappeared under the plow or concrete.

Of course, this beauty and value is personal and not necessarily shared by all. However it is something that contributes to our State. These areas effected by the Executive Order are part of an environmental and economic whole. Smaller bodies of water are still part of the water table and do have an effect on our larger lakes and streams. They may control flooding, hold sediment and mitigate pollution in addition to providing animal cover. This is why Aldo Leopold said, "*The first rule of intelligent tinkering is to save all the pieces.*"

Finally I do believe there is economic consequence to this Legislation. Business, and the people that come here to work, are attracted by many considerations when they make that decision. A healthy environment is a part of that decision in attracting investment and workers. We all have in mind bad examples of decision making that needed to be reversed before the community could move forward. The Badger Ammunition plant is one example of development being held back while years of pollution needed to be remediated. Healthy and balanced environmental policies are good for the community and business.

I do urge you to reconsider this Legislation, and suggest how it may be restructured to offer safeguards for the community and the environment. Certainly it must be that present Public hearings and discussion of all alternatives are a better use of resources, both time and money, than the development of a fair system through the courts.

Thank you for your time and consideration.

Daniel Nevers  
2022 Jefferson St  
Madison.



**From:** Katherine Stahl  
**Sent:** Wednesday, January 26, 2011 9:12 AM  
**To:** [Rep.mursau@legis.wisconsin.gov](mailto:Rep.mursau@legis.wisconsin.gov)  
**Subject:** Proposed changes for Brown Co Wetlands

Dear Representative Mursau:

Please do not proceed with the proposed legislation to exempt wetlands from regulatory and judicial review. Writing legislation to exempt wetlands that may be critical to a larger environmental process is short sighted. The current regulatory and judicial review process allows for a dialogue that recognizes all factors in each discrete wetland site. By dismissing all small (3 acre) wetlands as unnecessary for such review, we are loosing the possibility of analyzing the value of each tract and it opens the possibility of progressively chopping small tracts away to the point they no longer provide the invaluable function for the Brown County watershed.

Please do not proceed with this proposed legislation. And, please share my request with your other committee members.

Respectfully requested,  
Katherine Stahl

-----Original Message-----

From: Jessica Lindner [mailto:jmlindne@facstaff.wisc.edu]

Sent: Wednesday, January 26, 2011 8:48 AM

To: policy@wisconsinwetlands.org

Subject: Brown CT Bergstrom exemption

I called the Republican chair and vice-chair(?) and, it being before 9:00 a.m., was forced to leave a message on their answering machines. I asked them to oppose the bill and to protect our wetlands, stating that we need them to filter water, provide habitat to wildlife, etc.

I then called my representative, Ms Berceau, and spoke at some length with one of her staff members, who assured me that she would be voting against the exemption.

Thanks for doing what you do.

Jessica Lindner

--

---

**From:** Edie Ehlert [mailto:edieehlert@centurytel.net]  
**Sent:** Wednesday, January 26, 2011 8:27 AM  
**To:** policy@wisconsinwetlands.org  
**Subject:** Wetlands Legislation

Thank you for your work on this issue. This is what I sent to the committee and my Rep, Lee Nerison:

Dear Rep. Mursau and Rivard--

I am writing on behalf of Crawford Stewardship Project with grave concern on the wetlands exemption legislation. I grew up in central Wisconsin with an attitude that "swamps" were "waste areas." I have learned that this is about the farthest from the truth I could have been. Wetlands not only are the homes of some of the most special plants and animals of Wisconsin, they are crucial in the overall health of the waters of the state. In this era of increased pollution that stymies low impact tourism and general health of our waters, this proposal serves no purpose to the people or resources of the state.

Not only is this legislation non scientific in base, it sets a very bad precedent for other special interest exemptions to the entire wetland protection program that has taken years to formulate. This area in particular is a priority habitat restoration area for the Great Lakes Restoration Initiative, the Upper Mississippi River/Great Lakes Joint Venture, and numerous other conservation plans.

We are a fiscally conservative organization as well as a conservationist minded. And we have come to see that when the state makes special exceptions on the basis of so called economic growth or business, that usually means that someone is making money off the rest of us, using and/or polluting resources that belong to us all.

Please consider my comments and pass them on to the rest of the committee.

Respectfully,

Edie Ehlert, Coordinator  
Crawford Stewardship Project

*It is the mission of Crawford Stewardship Project to protect the environment of Crawford County from threats such as those posed by concentrated animal feeding operations (CAFOs) and to promote sustainable land use, local control of natural resources, and environmental justice.*

\*\*\*\*\*

Edie Ehlert  
Crawford Stewardship Project Coordinator  
15981 Moldrem Rd  
Ferryville, WI 54628  
608-734-3223

[edieehlert@centurytel.net](mailto:edieehlert@centurytel.net)  
[www.crawfordstewardshipproject.org](http://www.crawfordstewardshipproject.org)

Representative Mursau and Representative Rivard: Please share the following considerations with the committee on natural resources this morning.

Wisconsin is defined by a diverse landscape and amazing natural resources that have been a pleasure for me and my family to study and recreate in. Our state also has a distinguished history of being home to people who are recognized nationally and internationally because of the way they were able to highlight the importance of resource conservation (Aldo Leopold, John Muir, Sigurd Olson (in his younger years), Gaylord Nelson, and many others). Our wetland laws are based on making informed decisions and wetland losses are permitted if a project has adequate purpose and need, there are no feasible alternatives, and the wetland impacts would not result in the loss of significant wetland functions and values. Throughout Wisconsin's history (except, unfortunately, in more recent times), the importance of natural resource protection balanced with wise use of our resources has been a bipartisan effort. It is clear that this is important to tourism, recreation, public health, and the long term sustainability of Wisconsin. This context makes Wisconsin special.

It is my opinion that the wetland exemption bill being considered appears to cater to the special interests of a business owner and a narrow scope of economic benefit over the broader public interest of Wisconsin citizens. The legacy of a special exemption will remain in statute as a long term reminder that the wise use of our resources are important....unless you bypass the broad public interest by making the right campaign donations.

Please consider removing the special wetland exemption bill from further advancement in the legislature.

Sincerely,

Jon Simonsen

---

**From:** Karen Engelbretson [mailto:karen@kje.com]  
**Sent:** Wednesday, January 26, 2011 12:13 AM  
**To:** Rep.Severson@legis.wi.gov  
**Cc:** Rep.Mursau@legis.wisconsin.gov; Rep.Rivard@legis.wi.gov  
**Subject:** Brown County/Bergstrom wetland exemption bill

Dear Representative Severson,

I want to reach you before Wednesday's hearing to let you know that the lakeshore property owners of Polk County are opposed to the Brown County/Bergstrom wetland exemption bill. The bill sets a precedent for similar special exemption bills and takes away the public's rights to participate in environmental decision-making.

Our wetlands are precious and complex ecological systems. No matter how small, each wetland protects the quality of our surface water for recreation that's so important to the economy of Polk County, and the groundwater that sustains us all.

The members and friends of Polk County Association of Lakes and Rivers hope that we can count on you, Eric, to uphold our legacy of wetland protection.

Please share my message with your fellow members of the Natural Resources Committee. Thank you.

Karen

Karen Engelbretson  
President  
Polk County Association of Lakes and Rivers (PCALR)  
Stillwater: 651-602-9440  
Bone Lake: 715-857-5134 (summer)

---

**From:** Mariette Nowak [mailto:mmnowak@wi.rr.com]  
**Sent:** Tuesday, January 25, 2011 10:41 PM  
**To:** policy@wisconsinwetlands.org  
**Subject:** My comment on The Wetland Deregulation Bill, Assembly Bill 10

For your info: I sent the following to the two committee members & to Rep. Nass:

I am writing to express my opposition to the proposed deregulation bill. I think it is terrible public policy to propose a bill for the benefit of one company. Even worse, this bill is proposed while the project is under judicial review. Where has the public interest upheld here? The project does not even appear to meet state water quality standards for wetlands.

Wetlands are extremely important to help abate flooding. And we all know that we have had extremely torrential rains in recent years and seem to be in need of even more reservoirs, like wetlands, to absorb these rains. I have a small wetland on my property and some years in the past it's been completely dry, but it's been 5 feet deep in recent years. In addition wetlands, even small isolated wetlands, are extremely important for wildlife.

I also oppose the bill because millions of dollars of tax money, including both state and federal taxes which includes in small part my own taxes, have been spent to restore and preserve wetlands in the Green Bay area. I don't want the \$ I've invested, through those taxes, to go to waste.

I strongly oppose this bill and I hope you will too.

Mariette Nowak  
N9053 Swift Lake Dr  
East Troy, WI. 53120



Jan. 25, 2011

I write in opposition the Assembly Bill 10 that exempts "a certain wetland in Brown County" from laws administered by the Wisconsin Department of Natural Resources relating to water quality standards for wetlands and "certain other regulatory provisions."

I have two points:

1. Using the legislative process to exempt individual residents from state law is simply bad policy, bad governance. It will inevitably lead to further requests for legislative gifts to other residents in other counties. In short, this legislation essentially provides a precedent that could put all of Wisconsin's wetlands at risk.

Using the legislative process to site businesses also subverts good urban planning – planning that brings municipalities, citizens, and businesses into the process. This sort of maneuver essentially says that citizens and municipalities do not count in the production of well-planned and exciting cities AND jobs.

2. This legislation threatens the natural benefits that Wisconsin residents enjoy from their natural resources. Wetlands provide many benefits. In this case, floodwater retention, good flow of water through the city, and wildlife habitat for cranes, woodcock, geese and ducks are particularly relevant.

Please do not pass this bad bill on to the full Assembly for a vote. The precedent you set could send Wisconsin down a dangerous road.

Mary Linton  
Fort Atkinson, WI

**From:** Bernie Shumway  
**Sent:** Tuesday, January 25, 2011 8:08 PM  
**To:** Rep.bies@legis.wisconsin.gov  
**Subject:** wetlands protection--

Rep. Bies--In regards to the upcoming hearing re Brown County/Bergstrom Wetlands Exemption Bill, I must strongly make my opposition known to any proposal which would mess or alter wetlands protection already in place in our state. Exemptions such as this set a bad precedent and should not be allowed. By now, everyone knows the value of wetlands and the important functions they play in the health of our environment. Even a wetland that is small in size should not be viewed as unimportant.

Please share my comments with the members of the Natural Resources Committee who are giving consideration to such a bad idea.

Thank you.

Bernice A. Shumway  
10320 Old Stage Rd.  
Sister Bay WI 54234

Dear Representatives Mursau and Rivard,

As Chair and Vice-Chair, respectively, of the Assembly Natural Resources Committee, please share my comments with the rest of the committee.

I am not able to attend the hearing on this bill, so the purpose of my message is to urge the committee NOT to approve and pass this bill out of committee. The bill is bad for the wetlands of Brown County, sets a precedent for similar special-exemption bills, and takes away the public's rights to participate in environmental decision-making.

Thank you for your consideration,  
Anne Forbes

516 Wingra Street  
Madison, WI 53715  
608-257-3485

Good morning Mr. Rivard & Mr. Mursau,

Notice was posted that the Assembly Committee on Natural Resources will hold a hearing on the Brown County/Bergstrom wetland exemption bill on **Wednesday, January 26th at 9:30 am.**

In order to benefit just *one developer* in Brown County, AB 10 would deregulate any wetland in the county that is 3 acres or less. It would exempt all such wetlands from NR 103 wetland protection regulations and from chapter 30 regulations. And it would allow the filling in of wetlands located on the beds of lakes and streams in the county without any DNR approvals. Conservatively, more than 1000 acres of wetlands would become deregulated under this bill. In addition, if adopted, the bill would become a model for other counties to seek similar wetland protection exemptions from the Legislature.

I beg you, to NOT allow this bill to go through...this is not only a vital conservation issue but a crucial one too. Wisconsin was the first State to offer wetland protection and had gained much notoriety for its efforts. It would be a shame for this new administration to reverse this highly-regarded conservation issue.

I'm all in favor of creating jobs, but not if it's going to destroy our smaller wetlands and certainly not at our wildlife's expense.

Economic development and wetland protection can co-exist. Though some wetland loss is to be expected, in the vast majority of cases it is not necessary to destroy wetlands to create jobs.

Someone needs to speak up for our wildlife... and I hope that someone is you.

Best regards,  
Cathy Gagliardi  
Birchwood, WI

---

---

----- Forwarded message -----

From: **Kathy Bartilson** <[oh2paddle@gmail.com](mailto:oh2paddle@gmail.com)>

Date: Tue, Jan 25, 2011 at 5:59 PM

Subject: Vote NO on the wetland exemption bill

To: [Rep.Rivard@legis.wisconsin.gov](mailto:Rep.Rivard@legis.wisconsin.gov), [Rep.mursau@legis.wisconsin.gov](mailto:Rep.mursau@legis.wisconsin.gov)

Greetings Representatives Rivard and Mursau;

I am writing as a constituent from Northern Wisconsin in Rep. Rivard's district. I ask that you both vote against the bill coming before the Assembly Natural Resources committee tomorrow that would exempt small wetlands in Brown County from the protection they deserve. Please strongly advise your fellow committee members to stop this legislation as well.

Here are the reasons I oppose this measure, and why I feel it is contrary to Wisconsin's long history of wise resource conservation:

1. Bad precedent #1: Wisconsin wetlands need continued strong protection, because of the many functions they serve in our state's landscape: runoff retention to prevent flooding, wildlife and plant habitat (including endangered species), and water filtration to name a few. Weakening this protection (even in limited circumstances and localities) sets a bad precedent, opening the door to take away protection in more counties and larger wetlands. This bill should be voted down, so this is the END to legal threats to wetland protection, not the beginning.
2. Loss of cumulative acres of wetlands in the state AND Brown County: If these wetlands are lost through filling, the species that live or visit there will be displaced. The rain and snowmelt these wetlands capture and filter now will flow off to storm drains, carrying road grime with it to our already-challenged rivers and lakes. Or, the water that should be attenuated in the wetlands will end up in someone's basement. Wetland habitat and soils are NOT a good base for construction in the first place.
3. Mitigation is not the answer: Do not vote for this bill thinking wetlands can be recreated somewhere else. They are usually needed most right where they are. Similar to the poem "only God can make a tree," only nature can create a truly functional wetland. Restoration and mitigation efforts are seldom successful in establishing wetlands that provide any level of the ecosystem functions of native wetlands.
4. Bad precedent #2: This bill also cuts off the public's right to comment on contested permit actions on public waters. As I understand it, a contested case hearing has been requested by the public on the DNR permit to allow filling of one wetland that fits the criteria specified in the bill. The public has a right to contest this permit under statute. By simply passing a bill to allow it, the citizens' and taxpayers' rights are being circumvented. The permitting laws of our state were fairly established to allow citizens a voice in management of our public resources. This is a cherished legacy under our Wisconsin conservation heritage that cannot be lightly tossed aside for short term gain. It is also a betrayal of the people's right to be heard.

Does filling one wetland and abandoning 3 acres wetlands in Brown County make a difference really? **ABSOLUTELY!** Our state and nation have filled and destroyed way too many wetlands already since European settlement. You have the opportunity to reverse this trend, as every tenth-acre of wetland lost adds to this cumulative total, and diminishes the natural functioning of our State's watersheds.

If the goal of this legislation is for building jobs and improving business, then it not good for either business or the environment. Building on filled wetlands results in sagging structures, flooded

roads, more stormwater runoff, and loss of all the beauty and habitat wetlands provide. If you want to improve business in Wis., do it right - in locations suitable for construction - NOT IN WETLANDS!

Thank-you,

Kathy Bartilson

Representative Milroy, Senator Jauch, and the Wisconsin Wetlands Association-

Thank you for your distinguished history of natural resource protection. I was glad to be present and shake hands at the signing in of our Totogatic Wild River and look forward to future conservation accomplishments.

I know you are well aware of the legislation underway that threatens our state's wetlands. The following email was sent to Representatives Mursau and Rivard in opposition to this bill. I would like to share the thoughts therein with you and encourage Representative Milroy to vote against the bill in turn.

Again, thank you for your dedicated service.

Christopher Hagen

----- Forwarded message -----

From: **Christopher Hagen** <[christopher.k.hagen@gmail.com](mailto:christopher.k.hagen@gmail.com)>

Date: Tue, Jan 25, 2011 at 5:22 PM

Subject: Wetland Exemption Bill

To: [Rep.Rivard@legis.wisconsin.gov](mailto:Rep.Rivard@legis.wisconsin.gov), [Rep.mursau@legis.wisconsin.gov](mailto:Rep.mursau@legis.wisconsin.gov)

Representatives Rivard and Mursau,

I write regarding the upcoming Wetland Exemption Bill. There are many ills to come of passing this legislation.

Think very carefully before allowing short-sighted "projects" that can swat away natural treasures that may only be formed over timescales outside our lifetimes. The smallest of wetlands are invaluable to their surrounding terrain and only formed there in necessity. Accelerating their destruction accelerates the arrival of our own hardships.

This bill also cuts off the public's right to comment on contested permit actions on public waters. The public has right to contest this permit under statute. By simply passing a bill to allow it, the citizens and taxpayers rights are being circumvented. The permitting laws of our state were fairly established to allow citizens a voice in management of our public resources. This system was put in place by the democratic process for which your job was created. You must not pare away the voices of your constituents or you will someday find them silent where they may have supported you.

These habitats play many roles in the ecosystem. None of them are dispensable. In addition to harboring endangered species they mediate the extremes of our water table. All buildings in flood zones are vulnerable, but those placed upon filled wetlands will be at severe risk of damage (if not elimination) in having blocked natural outlets. Not only Wisconsin localities are effected by our land treatment, but without our natural buffering the southern midwestern states are put at only greater risk. Can we really justify allowing construction here that will contribute to catastrophic outcomes downriver?

"You can build up the city and destroy the land  
Nature always comes roaring back again

...

Men never seek the fount of wisdom  
But will kill for the fountain of youth  
Seeking wealth and power  
With total disregard for the truth."

-Midwestern musician D. Mahoney

Please do not waste our vital resources. However many jobs are created in doing so, it ultimately afflicts the welfare of those with and without.

Sincerely,

Christopher Hagen

---



-----Original Message-----

From: Roger Packard [mailto:packard@engr.wisc.edu]

Sent: Tuesday, January 25, 2011 5:23 PM

To: Rep.Mursau@legis.wisconsin.gov; Rep.Rivard@legis.wi.gov

Cc: Rep.Jorgensen@legis.wisconsin.gov; Sen.Fitzgerald@legis.wisconsin.gov

Subject: AB 10

Dear Representatives Mursau and Rivard,

The Wetlands Deregulation Bill, AB10, which would provide regulatory exemptions targeted essentially to an individual, is pure pay-for-play political corruption and I urge all honest, well-meaning members of the Assembly Committee on Natural Resources to vote to reject this disgraceful bill. Please share my comments with other members of the committee.

Sincerely,

Roger Packard  
N7550 North Shore Rd  
Lake Mills, WI 53551

---

January 25, 2011

To: Representative Jeffrey Mursau (Chair)

Representative Roger Rivard (Vice-Chair),

policy@wisconsinwetlands.org.

Senator Kathleen Vinehout

Representative Warren Petryk

Re: Proposed Bill Regarding exemption for Brown County Wetlands (Part of a broader bill regarding how administrative rules are developed and approved)

It is with dismay that I learned of the proposed exemption of a 3 acre parcel of wetland from rules designed to protect them. In the past exemptions have applied only to much smaller parcels of about .2 acres. Federally controlled wetlands would be exempt from this proposal. However, this smacks of the beginnings of breaking down regulations that have protected Wisconsin wetlands.

As you are all learned people, I do not have to enlighten you as to the benefits of wetlands. Their preservation enhances our state in multiple ways. Please do not allow the erosion of Wisconsin's preserved wild areas.

Mr. Mursau, please share my comments with all members of the board.

Sincerely,

Gloria L Adams

1216 S Farwell St

Eau Claire, WI 54701

gloryaec@att.net

---

---

From: TheMarshSkiCo@aol.com  
To: Rep.mursau@legis.wisconsin.gov  
CC: rep.nygren@legis.wisconsin.gov  
Sent: 1/25/2011 4:30:16 P.M. Central Standard Time  
Subj: Wetlands Bill For Brown Co.

Rep. Mursau, I write this with a great deal of disappointed over how quickly Wisconsin's long standing commitment to our natural resources and water quality have been tossed under the tires of the bus since Gov. Walker has taken office. The bill your committee with hold a hearing on regarding the removal of protections for wetlands in Brown County has to have supporters who have no idea just how valuable the wetlands they are speaking of are to this area. The EPA, US Corps of Engineers, USFWS, DNR, Brown Co. government, as well as many local conservation organizations such as the Green Bay Duck Hunters Assoc, the Brown Co. Conservation Alliance, Trout Unlimited, ect, all have been working on long term plans to restore the water quality of lower Green Bay and the many wetlands along the west shore of Green Bay that are an integral part of overall health of Green Bay and the Great Lakes. We understand very clearly how valuable the wetlands are that this bill would allow to be filled in. And we understand fully that the mere requirement that new wetlands be created to replace those lost is often not an effective, nor practical, way to replace the values lost when a natural wetland is lost. Millions of dollars are being spent, and there are long term plans in place to restore the quality of Green Bay and the Great Lakes. This bill runs contrary to the goals of this huge effort currently underway. I would also remind you that a strong bipartisan vote in the state legislature just a few years ago added additional protections for the very wetlands that are now being considered for filling in because a business may find it convenient to do so, or "cost effective" to do so because the land is considered "cheap" because it is not now eligible for filling in. Long after the "business" environment in Wisconsin has recovered, bills such as this one will result in a significant loss to our natural resource environment in Wisconsin that will never be regained.

Larry Kriese  
2762 White Pine Rd.  
Green Bay, WI 54313  
(920) 434-0143

---

**From:** Cindy and Ed [mailto:cakegm\_keo@att.net]

**Sent:** Tuesday, January 25, 2011 3:39 PM

**To:** Rep.pocan@legis.wisconsin.gov

**Cc:** policy@wisconsinwetlands.org

**Subject:** Risky Precedent set by the Wetland Exemption Bill discussed tomorrow.

Re. tomorrow's Wetland Exemption Bill hearing in rm.412 East, I e.mailed Rep's Jeffrey Musau (Chair) and Roger Rivard (Vice-Chair) against the Green Bay/John Bergstrom urban wetland (<= 3 acres). I pointed out the damage around Madison done by the wetland infill for big box stores and shopping malls, such that the small frogs formerly heard on evening April walks are now largely GONE.

Thank you for your laudable efforts over the years.

Ed Mason, 1157 Emerald St., Madison 53715

---

**From:** Jonbecker@aol.com [mailto:Jonbecker@aol.com]  
**Sent:** Tuesday, January 25, 2011 2:39 PM  
**Cc:** rep.roys@legis.wi.gov  
**Subject:** Assembly 81 resident registers opposition to JR1AB-10

Dear Reps. Mursau and Rivard:

I write to express my opposition to JR1AB-10, which proposes a special legislative exemption to allow a development that will destroy wetlands, while undermining prior public support for protection of the environs.

This is special interest legislation that reminds of how things were done in the Soviet Union when I lectured there during the *glasnost* years. The powerful got preferred treatment, by law or by court ruling, while the public interest in the environment was ignored. The result: The direction of an entire river could be changed, ruining an entire lake, such as Baikal. This is not a conservative stance; rather, it is authoritarian.

Reverse your course instead, and rejoin the proud, bipartisan history of Wisconsin conservation ethics, please.

Regards,  
Jon

P.S. Full mitigation of the loss of a natural wetland is usually impossible, because location is primary to the ecology of the wetlands. Let the remaining natural wetlands be, so mitigation can be focused on making up for the 50% of wetlands already lost statewide since European settlers arrived.

+USA 608.469.0316 mobile

---

**From:** Jari Holland Buck [mailto:jari@majesticwolf.com]

**Sent:** Tuesday, January 25, 2011 2:16 PM

**To:** Rep.Rivard@legis.wisconsin.gov

**Subject:** Wetland Exemption Bill

Rep. Rivard,

As a frequent visitor to your state, I read with dismay about your intent to hold hearings re: the Wetland Exemption Bill this Wednesday, especially in light of your failure to provide requested documents to the Wisconsin Wetlands Association prior to the hearing.

This bill is bad for the wetlands of Brown County, sets a precedent for similar special-exemption bills, and takes away the public's rights to participate in environmental decision-making by setting such a quick hearing date without public solicitation.

PLEASE do not allow a retail venture to encroach upon and potentially destroy this precious resource. Surely, there is another viable piece of property for Bass Pro Shop that does not negatively impact the environment.

I would appreciate it if you would share my correspondence with the remainder of the committee for their consideration. If this is not the time to place the environment first, when does it start?

Jari Holland Buck  
Training, Transitions, Teams  
MAJESTIC WOLF  
913-661-9911  
<http://www.majesticwolf.com>

---

---

**From:** Judi Kinney [mailto:judi@attainmentcompany.com]  
**Sent:** Tuesday, January 25, 2011 2:10 PM  
**To:** Erin O'Brien  
**Subject:** Re: Wetland Deregulation bill AB 10

Please pass it along. Thank you.

Thank you for writing and sharing this correspondence Judi...did you also forward it to the committee and your rep or do you need us to pass it along?

Erin O'Brien

Wetland Policy Director  
Wisconsin Wetlands Association  
222 S. Hamilton St., Suite 1  
Madison, WI 53703  
www.wisconsinwetlands.org  
608-250-9971

---

**From:** Judi Kinney [<mailto:judi@attainmentcompany.com>]

**Sent:** Tuesday, January 25, 2011 1:08 PM

**To:** [policy@wisconsinwetlands.org](mailto:policy@wisconsinwetlands.org)

**Subject:** Wetland Deregulation bill AB 10

To Whom It May Concern,

I am writing you to oppose the bill Wetland Deregulation AB 10. As an owner of 3 acres of wetlands I understand how important even 3 acres is to wildlife. For many years my husband and I have been planting native species on our property. Part of our property is a 3 acre wetland that flows into a larger marsh in Dane county. Since we have enhanced this part of our property more native plants has returned and it is very valuable for the local wildlife that come to drink and breed on this part of our land. It is amazing how such a small parcel can support such a diversity.

Water resources are becoming more and more important. There are less valuable land that a shopping center can be built on and would not endanger a wetland. I urge you to not allow the passage of the Wetland Deregulation Bill AB 10

Cordially,

Judi Kinney